

# SOLUTION 7 LIMITED

## ONLINE LICENCE TERMS AND CONDITIONS

Last Updated: 05 January 2023.

You can [download a PDF version of this document here](#). Please do NOT copy and amend these Online Licence Terms and Conditions.

### INTRODUCTION - FORMING THE CONTRACT

1. If Solution 7 (we) have sent a quote to you (if you are a sole trader) or to the company or organisation for which you work or which you represent (your company), Solution 7 was offering to enter into a contract with you (if you are a sole trader) or your company to use the Solution 7 Software on the Terms and Conditions set out below, as amended or supplemented by that quote.
2. If that quote has been signed by you (if you are a sole trader) or on behalf of your company (without amendment) and returned to Solution 7, a contract (on the terms set out in that quote, paragraphs 11 and 12 of this Introduction and the Licence Terms and Conditions below (together they are called this Agreement) between us and you (if you are a sole trader) or your company, came into existence when that signed, unamended quote was returned to us.
3. If we have not sent a quote to you or your company, or if any quote we sent has not been signed and returned to us without amendment, paragraphs 4 - 10 of this Introduction explain how and when a contract is made.
4. When you complete a Registration Form and submit it to us, you are offering to enter into a contract with us to use the Solution 7 Software on the terms set out in paragraphs 11 and 12 of this Introduction and the Licence Terms and Conditions set out below (together they are called this Agreement), and you are confirming that you agree to this Agreement.
5. That offer and confirmation is made by you, for yourself if you are a sole trader, or on behalf of your company.
6. If you are not a sole trader, you confirm that you have authority to agree to this Agreement and to enter into a contract with us on behalf of your company.
7. Please read the terms and conditions set out below carefully. If you do not agree to them you will not be able to install and use the Solution 7 Software.
8. Our registration process allows you to check and amend any errors before submitting the Registration Form. Please check the Registration Form carefully before submitting it. You are responsible for ensuring that the details in the Registration Form are complete and accurate.
9. After you have installed the Software, you should contact us at [sales@solution7.co.uk](mailto:sales@solution7.co.uk) in order to request a Licence Key. The Solution 7 Software CANNOT be used without a Licence Key. We may refuse to issue a Licence Key, as we see fit, without giving any reason.
10. A contract, on the terms of this Agreement, between us and you (if you are a sole trader) or your company, will come into existence when we issue a Licence Key to you (if you are a sole trader) or your company.
11. If we issue a Trial Licence Key, that Licence Key will expire at the end of the 30 day Trial Period. During that Trial Period, we license you (if you are a sole trader) or your company to use the Solution 7 Software on a trial basis, free of charge, provided you or it comply/ies with this Agreement.
12. Unless you (if you are a sole trader) or your company notify/ies us before the end of the Trial Period that you or it no longer wish(es) to use the Solution 7 Software, at the end of the Trial Period we will invoice you (if you are a sole trader) or your company, for a 12 month (or such other period set out in the quote or agreed in writing by us) Full Licence of the Solution 7 Software for no more than 10 concurrent Users in your business (if you are a sole trader) or in the business of your company or for the number of concurrent users set out in the quote or agreed by Solution 7 in writing), and issue another Licence Key. That Full Licence will be subject to this Agreement (except the terms which apply only to a Trial Licence). That Licence Key will expire and the right to use the Solution 7 Software will end unless you (if you are a sole trader) or your company have/has paid us the licence fee for all concurrent Users within 30 days after end of the Trial Period.
13. We draw your attention to our [Privacy Statement](#). It sets out how we use your personal data and your rights under the data protection legislation.
14. We are Solution 7 Limited. We are a company registered in England, under company number 03415375. Our registered office and our main trading address is at the Magdalen Centre, Oxford Science, Park, Oxford, Oxon, OX4 4GA, United Kingdom. Our VAT

number is 642361260.

15. If you wish to contact us about the Software, any services which we provide, or this Agreement, please e-mail us at [sales@solution7.co.uk](mailto:sales@solution7.co.uk), or visit our web site at [www.solution7.co.uk](http://www.solution7.co.uk) for other contact details.

## TERMS AND CONDITIONS

### 1. Definitions and Interpretation

1.1 In this Agreement the following expressions have the meanings set opposite:

**an Affiliate:**

an entity that, at the relevant time, is directly or indirectly Controlled by the Licensee, where Control means the power, directly or indirectly, to direct or cause the direction of the management of an entity, regardless of whether through the ownership of shares, by contract, or in any other way, and Controlled is to be interpreted accordingly;

**this Agreement:**

the Introduction set out above, these terms and conditions and the details in any Registration Form, each as amended from time to time in accordance with Clause 11;

**an Authorised Contact:**

an individual named as an authorised contact the Registration Form or any individual whom the Licensee has notified to Solution 7 as a replacement authorised contact, provided that the Licensee may not have more than two Authorised Contacts at any one time;

**an Authorised User:**

an individual authorised by the Licensee or any Affiliate to use the Software, but only for so long as that individual is an employee, member of the contract staff, consultant or an auditor of the Licensee or an Affiliate;

**Beta Functionality:**

Any functionality included in the Software which is marked or designated as alpha, beta, preview or pre-release;

**a Clause:**

a clause in these Terms;

**a Controller:**

has the meaning given to that expression in the Data Protection Legislation;

**the Current Version:**

the last version of the Solution 7 Software and the immediately preceding version of the Solution 7 Software made available by Solution 7 to licensees generally, but not any software used under a Trial Licence or any Beta Functionality or any version of the Solution 7 Software developed or modified to meet the requirements of one or more particular licensees;

**the Data Protection Legislation:**

the United Kingdom Data Protection Act 2018 and any other law or regulation relating to the Processing of Personal Data to which Solution 7 is subject at the relevant time;

**the Data Protection Schedule:**

the data protection schedule attached to this Agreement;

**a Data Subject:**

has the meaning given to that expression in the Data Protection Legislation;

**the Delivery Date:**

the date on which, following its receipt of the Licence Fee from the Licensee for the first Licence Period, Solution 7 issues a Licence Key to the Licensee for that Licence Period;

**the Documentation:**

any user documentation included with, or provided by Solution 7 in connection with, the Solution 7 Software;

**an Error:**

a material failure of the Current Version to provide the functions (except any Beta Functionality) described in the Documentation;

**a Full Licence:**

a Licence for which the Licensee has paid Solution 7 the Licence Fee and for which Solution 7 has issued a Licence Key to the

Licensee;

**the Initial Licence Period:**

12 months starting on the Delivery Date, or such other initial licence period set out in the Quote or agreed in writing by Solution 7, subject in each case to the earlier termination of this Agreement in accordance with Clause 2.1, 5.5, 6.5, 7.3 or 8;

**Intellectual Property Rights:**

patents, rights to any invention, copyrights and related rights, moral rights, rights in computer software, trade marks, service marks, trade names, domain names, rights in any get-up, goodwill and the right to sue for passing off or unfair competition, registered designs, other rights in designs, rights of confidence, rights in any know-how, trade secrets, rights to extract and exploit data, database rights, any similar or equivalent rights protected in any jurisdiction, whether now existing or coming into existence at some future date and whether or not registered, any application for (and rights to apply for and be granted) any of the above, any renewals or extensions of, and rights to claim priority from, any such rights, and any accrued rights of action in respect of any of the above;

**the Instance of NetSuite:**

the single instance of Oracle's NetSuite software with the Account ID provided by the Licensee to Solution 7, including any sandbox created from that instance and any release preview account used for regression testing Oracle's NetSuite software;

**the Licence:**

the right to use the Solution 7 Software granted in Clause 2.2;

**the Licence Fee:**

the fee, at Solution 7's then standard rates per Concurrent User, payable by the Licensee in return for a Full Licence and the provision of the Support Services during the then current Licence Period;

**a Licence Key:**

a key which allows the use of the Solution 7 Software for a limited period of time;

**a Licence Period:**

the Initial Licence Period and then consecutive 12 month periods (or such other licence period set out in the Quote or agreed in writing by Solution 7) following Solution 7 receiving the Licence Fee from the Licensee for that licence period and issuing a Licence Key for a Full Licence, subject to the earlier termination of this Agreement in accordance with Clause 5.5, 6.5, 7.3 or 8;

**the Licensee Data:**

the data inputted or imported into the Software by or on behalf of the Licensee or any Affiliate (whether that data belongs to the Licensee, an Affiliate or any other person);

**the Licensee Personal Data:**

any Personal Data which Solution 7 Processes for the Licensee or any Affiliate from time to time pursuant to this Agreement;

**the Open-Source Software:**

the open-source software as defined by the Open Source Initiative (<http://opensource.org>) or the Free Software Foundation (<http://www.fsf.org>) made available to the Licensee with the Solution 7 Software, as modified and updated from time to time by the provision of the Support Services (if any) or the Professional Services (if any) provided by Solution 7 to the Licensee;

**the Parties:**

Solution 7 and the Licensee and each of them is a Party;

**Personal Data:**

has the meaning given to that expression in the Data Protection Legislation;

**to Process:**

has the meaning given to that expression in the Data Protection Legislation;

**Professional Services:**

consultancy, installation, configuration, integration and development services, training and any other services (except Support Services) provided by Solution 7 (either directly or through a third party) to the Licensee in connection with any of the Software;

**the Quote:**

the written quote issued by Solution 7 to the Licensee, signed (without amendment) on behalf of the Licensee and returned to Solution 7;

**the Registration Form:**

the online registration form submitted to Solution 7 by or on behalf of the Licensee;

**the Relevant Purpose:**

Solution 7 providing the Support Services or any Professional Service (as the case may be) to the Licensee;

**the Services:**

any services, including any Professional Services and any Support Services, supplied by Solution 7 (either directly or through a third party) to the Licensee in connection with any of the Software;

**the Support Services:**

the services described in Clause 4.1;

**the Solution 7 Confidential Information:**

any information relating to Solution 7's business, clients or business affairs (including the Solution 7 Software and any information relating to the Solution 7 Software), except any such information which is or comes into the public domain (except by reason of any breach of Clause 9.2) or which is trivial or obvious, provided that the Solution 7 Software is not to be treated as being in the public domain by reason that it is licensed to Solution 7's customers;

**Solution 7's Personnel:**

Solution 7's employees, staff, workers, contract staff and officers;

**the Solution 7 Software:**

Solution 7 software (in object code) downloaded by or on behalf of the Licensee or any Affiliate, as modified and updated from time to time by the provision of the Support Services (if any) or the Professional Services (if any) provided by Solution 7 to the Licensee;

**the Software:**

any of the Solution 7 Software and any of the Open-Source Software;

**a Subprocessor:**

a person engaged by Solution 7 (except a member of Solution 7's Personnel) to Process any of the Licensee Personal Data;

**the Third Party Software:**

any third party software required to use the Solution 7 Software (as stated on Solution 7's website from time to time) and any other third party software advised to the Licensee by Solution 7 from time to time and which is necessary or advisable for the use of the Software;

**a Trial Licence:**

a Licence, limited to 30 days, for which the Licensee has not paid Solution 7 the Licence Fee;

**a Trial Licence Key:**

a Licence Key which allows the Licensee to use the Solution 7 Software, for 30 days, free of charge;  
the Trial Period: 30 days, starting when Solution 7 issues a Trial Licence Key to the Licensee;

**a User:**

an Authorised User and any other individual who accesses any of the Software through the Licensee's or any Affiliate's IT system or using the password or ID of any individual authorised by the Licensee or by any Affiliate to use the Software;

**VAT:**

any value added, sales, turnover or similar tax imposed on the sale or supply of the Software or any of the Services;

**Working Hours:**

9 am to 5 pm (London time) Mondays to Fridays, except bank, public or statutory holidays in England;

**Writing:**

includes text stored and transmitted electronically.

1.2 Any reference in this Agreement to a statute or regulation is to be construed as a reference to that statute or regulation as amended, extended or re-enacted from time to time, and it includes any subordinate legislation from time to time in force made under it.

1.3 Unless the context otherwise requires, in this Agreement, words in the singular include the plural and words in the plural include the singular.

1.4 The headings in this Agreement are for ease of reference only; they do not affect its interpretation or construction.

1.5 The rule known as the *ejusdem generis* rule does not apply to this Agreement. Accordingly general words introduced by the word other will not be given a restrictive meaning because they are preceded by words indicating a particular class of acts, matters or things.

1.6 Any obligation in this Agreement not to do something, includes an obligation not to allow that thing to be done.

1.7 Any words in this Agreement following the expressions including, include, in particular, or any similar expression, are merely illustrative and do not limit the sense of the words, description, definition, phrase or expression preceding those expressions.

1.8 In this Agreement a person includes a natural person, a corporate or unincorporated body (whether or not it has a separate legal personality) and that person's personal representatives, successors and permitted assigns.

1.9 A reference in this Agreement to a Party includes that Party's permitted assigns.

1.10 Any reference in this Agreement to an English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing will, in respect of any jurisdiction except England and Wales, be deemed to include a reference to what most nearly approximates to the English legal term in that jurisdiction.

1.11 This Agreement is drafted in the English language. If this Agreement is translated into any other language, the English language version will prevail.

1.12 This Agreement will be superseded in its entirety by any later agreement for the licensing of the Solution 7 Software and its support entered into by Solution 7 and the Licensee, but without prejudice to any terms of this Agreement which are to survive the termination of this Agreement and any and all accrued rights and remedies under or in connection with this Agreement.

1.13 If there is any conflict or inconsistency between the Quote and these Terms and Conditions, the provisions of the Quote will prevail over these Terms and Conditions, but only to the extent necessary to resolve that conflict or inconsistency.

## **2. Trial, Licence and Restrictions**

2.1 Provided Solution 7 has issued a Licence Key for the Trial Period to the Licensee, during the Trial Period the Licensee may use the Solution 7 Software and may allow any Affiliate to use the Solution 7 Software free of charge provided there are not more than 10 concurrent Users, and otherwise subject to the terms of this Agreement. At or before the end of the Trial Period, the Licensee will:

2.1.1 give Solution 7 notice to the effect that the Licensee does not wish to continue using the Solution 7 Software and the Licensee and each Affiliate will immediately stop using the Solution 7 Software; or

2.1.2 pay Solution 7 the Licence Fee for the Initial Licence Period in accordance with Clause 5.

If it does not receive notice under Clause 2.1.1, Solution 7 will provide the Licensee with a Licence Key which will allow the Licensee and the Affiliates to use the Solution 7 Software during the Initial Licence Period, but that Licence Key will cease to allow the use of the Software if the Licensee has not paid the Licence Fee or any other monies due to Solution 7 in accordance with this Agreement.

If Solution 7 receives notice under Clause 2.1.1, the Trial Period and this Agreement will automatically and immediately terminate provided that, if the Licensee or any of the Affiliates continues to use the Solution 7 Software, this Agreement will continue in full force and effect and the Licensee will be obliged to pay Solution 7 the Licence Fee for the Initial Licence Period in accordance with Clause 5.

2.2 Subject to the other provisions of this Clause 2 (except Clause 2.1), the Licensee may use the Solution 7 Software and may allow any Affiliate to use the Solution 7 Software on the terms set out in this Agreement. The Licence is non-exclusive and non-transferable. Any Open-Source Software is not licensed by Solution 7 but is provided subject to the terms imposed by the licensor of that Open-Source Software. Those are available for Solution 7 on request.

No Licence Fee is payable in respect of the Licensee's or any Affiliate's use of any of the Open-Source Software.

2.3 Solution 7 will provide the Licensee with a Licence Key which will allow the Licensee and the Affiliates to use the Solution 7 Software during the then current Licence Period, but that Licence Key will cease to allow the use of the Solution 7 Software if the Licensee has not paid the Licence Fee or any other monies due to Solution 7 in accordance with this Agreement.

No Licence Fee is payable in respect of the Licensee's or any Affiliate's use of any of the Open-Source Software.

2.4 If a maximum number of concurrent Users, or a version of the Solution 7 Software is specified in this Agreement, in the Quote or in any correspondence between the Licensee and Solution 7 or in any invoice issued by Solution 7 to the Licensee, the Solution 7 Software may be used only on or by up to that number of concurrent Users at any one time, and where a version of the Solution 7 Software is specified in the Quote, any correspondence between the Licensee and Solution 7 or in any invoice issued by Solution 7 to the Licensee or in the Documentation, this Agreement permits the use only of that version of the Solution 7 Software. If the Licensee or any Affiliate wants to increase the number of concurrent Users, or to change or to use a different version of the Solution 7 Software, or to use any Beta Functionality which Solution 7 has withdrawn, the Licensee must obtain an additional licence or

extension of the Licence from Solution 7. Any addition or extension to the Licence may be subject to the Licensee paying additional licence fees and, where applicable, additional support and other service fees.

2.5 If the Third Party Software includes any of Oracle's NetSuite software, the Solution 7 Software may be used only on the



2.5 If the Third Party Software includes any of Oracle's NetSuite software, the Solution 7 Software may be used only on the Instance of the NetSuite software. If the Licensee wants itself, any Affiliate or any other person to be able to use the Solution 7 Software on an additional or different instance of Oracle's NetSuite software, the Licensee must obtain an additional licence or extension of the Licence from Solution 7. Any addition or extension to the Licence may be subject to the Licensee paying additional licence fees and, where applicable, additional support and other service fees.

2.6 Subject to the termination of this Agreement in accordance with Clause 2.1, 5.5, 6.5, 7.3 or 8, the Full Licence is an annual licence (or for such other licence period set out in the Quote or agreed in writing by Solution 7) and at the end of the then current Licence Period, the Full Licence will automatically renew for a 12 month Licence Period (or such other licence period set out in the Quote or agreed in writing by Solution 7). On that renewal the Online Licence Terms then appearing on Solution 7's website (the Renewal Terms) will apply instead of these Online Licence Terms. If you do not agree to the Renewal Terms, you may decline to renew by giving Solution 7 notice to that effect within 7 days after the date on which the renewal takes effect.

2.7 Unless the Licensee obtains an additional licence or extension allowing the use of a different version of the Solution 7 Software under Clause 2.3, the Licence is restricted to use of the version of the Solution 7 Software first provided to the Licensee or the Current Version.

2.8 Only the Licensee, the Affiliates and their respective employees, contract staff and consultants working within their organisation for their benefit and their auditors using the Solution 7 Software for the Licensee's or the Affiliate's benefit may use the Solution 7 Software. Unless the Licensee first obtains Solution 7's written consent, neither the Licensee nor any Affiliate may transfer the Solution 7 Software or share its use with anyone else; nor use the Solution 7 Software for anyone else's benefit (including using it to provide software as a service, outsourcing services, application services or facilities management services). Neither the Licensee nor any Affiliate may sub-license the use of the Solution 7 Software. The Licensee will be responsible for each Affiliate and its and their employees, contract staff, consultants and auditors complying with this Agreement.

2.9 The Licensee and the Affiliates may make copies of the Solution 7 Software for back up purposes and for use by their respective employees, contract staff and consultants working within their organisation for their benefit and for use by their auditors using the Solution 7 Software for the Licensee's or its Affiliates' benefit. The Licensee must keep each copy of the Solution 7 Software secure, in the Licensee's possession, and under its control, at all times.

2.10 The Licensee must ensure that every copy of the Solution 7 Software made by the Licensee or any Affiliate bears the copyright and other proprietary notices on the Solution 7 Software downloaded by or on behalf of the Licensee or any Affiliate or their respective employees, contract staff, consultants or auditors. Neither the Licensee nor any Affiliate nor any User may remove, obliterate or modify any of those notices.

2.11 Neither the Licensee nor any Affiliate may, without first obtaining Solution 7's written consent, modify the Solution 7 Software, or combine it with, or incorporate it in, any other software. If anyone except Solution 7, or its authorised agent, modifies the Solution 7 Software, Solution 7 will be released from any obligation to provide the Support Services and any other services in relation to the Software and Solution 7 will be entitled to raise, and the Licensee will pay, Solution 7's additional charges for any services which Solution 7 may provide in respect of the modified Software.

2.12 Except as permitted under any applicable law out of which it is unlawful to contract, neither the Licensee nor any Affiliate may reverse engineer any of the Solution 7 Software to determine any design structure, concepts or methodology behind the Solution 7 Software, or to incorporate it in any other software or any product, or for any other purpose.

2.13 The Licensee and the Affiliates will make and retain sufficient back-ups of the Software and the Licensee Data to ensure that in the event of any of the Software or any of the Licensee Data being lost or corrupted, the same can be restored and any disruption to the Licensee's or any Affiliate's business avoided.

2.14 The Licensee and each Affiliate may allow any Authorised User to use the Solution 7 Software for the Licensee's or that Affiliate's benefit (but for no other purpose), provided that:

2.14.1 the maximum number of concurrent users is not exceeded;

2.14.2 the Licensee ensures that each Authorised User uses the Solution 7 Software in accordance with the terms of this Agreement and any acceptable use policy that Solution 7 may issue from time to time; and

2.14.3 the Licensee has paid Solution 7 for all the concurrent users.

2.15 Neither the Licensee nor any Affiliate may use the Software unless:

2.15.1 the Licensee and that Affiliate have, and throughout each Licence Period continue to have, a current and valid licence to use the Third Party Software with such upload functionality as may be necessary to allow it to use the Software in a way which meets its requirements; and

2.15.2 if the Third Party Software includes any of Oracle's Netsuite software, they all use the Software on the Instance of the Netsuite.

2.16 Neither the Software nor any technical data relating to it may be used by the Licensee, any Affiliate or any other person in

2.16 neither the Software nor any technical data relating to it may be used by the Licensee, any Affiliate or any other person in breach of any applicable export control laws or regulations, including those of the United Kingdom or the United States. The Licensee will not, and will ensure that each Affiliate does not, export the Software or any technical data relating to it to any country: for which an export licence or other governmental approval is required unless it first obtains such licence or approval; or which is subject to any sanction or embargo applied by the United Kingdom Government, the European Union or any other competent authority.

2.17 If the Third Party Software includes any of Oracle's NetSuite software, immediately on its ceasing to be Controlled by the Licensee or its ceasing to be authorised by the Licensee to use the Instance of NetSuite, any entity which has been an Affiliate or has been authorised to use the Instance of NetSuite and its employees, contract staff, consultants and auditors will:

2.17.1 immediately stop using the Solution 7 Software and destroy all copies of the Solution 7 Software then in its or their possession or under its or their control; and

2.17.2 at Solution 7's request, immediately return to Solution 7 or destroy any and all Confidential Information of Solution 7, but the former Affiliate and its employees, contract staff, consultants and auditors will continue to comply with Clause 9 and the Licensee will continue to be liable to Solution 7 for any failure by the former Affiliate or any of its employees, contract staff, consultants and auditors to comply with this Agreement.

The Licensee will, will if so requested by Solution 7, certify in writing that any Affiliate or former Affiliate and their respective employees, contract staff, consultants and auditors have complied with this Clause 2.17.

### **3. Testing and Acceptance**

3.1 If the Licensee has not permanently ceased to use the Solution 7 Software on or before the end of the Trial Period, the Licensee will be deemed to have accepted the Solution 7 Software.

3.2 The Licensee will, before it or any of the Affiliates uses any Error correction, update, modification, customisation or new version of the Software in a production or live environment, test it in a sandbox or other test environment or platform sufficiently thoroughly to establish that that update, modification, customisation or new version functions satisfactorily. If the Licensee is not satisfied that the update, modification, customisation or new version functions satisfactorily, the Licensee must notify Solution 7 immediately of any actual or suspected problem or defect and neither the Licensee nor any Affiliate may use that Error correction, update, modification, customisation or new version in a production or live environment.

3.3 The Licensee will be deemed to have accepted any Error correction, update, modification, customisation or new version of the Software if the Licensee or any Affiliate uses it in a production or live environment.

### **4. Professional and Support Services**

4.1 The following Support Services are included in the Licence Fee (but are not provided during the Trial Period):

4.1.1 the provision during Working Hours of a help desk for the purpose of advising the Licensee in relation to problems encountered in using the Software;

4.1.2 the provision of any Error corrections to the Software issued to Solution 7's licensees generally from time to time;

4.1.3 the provision of any updates to the Software issued to Solution 7's licensees generally from time to time;

subject to any restrictions or limitations on the Support Services notified by Solution 7 to the Licensee from time to time.

4.2 The Support Services and any other services under this Agreement will be provided to the Licensee and Solution 7 will not be obliged to provide any such service to any Affiliate.

4.3 A third party, if authorised by Solution 7, by special arrangement with the Licensee and subject to the terms agreed between that third party and the Licensee, may provide help desk services to the Licensee and the Affiliates. Solution 7 will not be responsible for the provision of any such services or the omission of any third party to provide those services.

4.4 Solution 7 is not obliged to provide any Professional Services to the Licensee or any Affiliate, but will try and provide that sort of service to the Licensee if requested by the Licensee if and when Solution 7 can (either directly or through a third party). If the Licensee requests any Professional Service and Solution 7 agrees to provide it, the Parties will record the Professional Service(s) to be provided and the fees payable for them in writing, signed on behalf of each Party. The terms of this Agreement will apply to the provision of any Professional Service by Solution 7 (either directly or through a third party).

4.5 Solution 7 may decline to provide assistance under Clause 4.1.1 if a call requesting assistance is made by anyone except an Authorised Contact. Solution 7 may decline to provide assistance under Clause 4.1.1 or may charge the Licensee for providing that assistance, if the Licensee makes more than 30 calls per Authorised Contact to Solution 7's helpdesk in any 3 month period, not taking into account calls to report any Error.

4.6 Solution 7 may decline to provide the Support Services in Clause 4.1.1 to anyone except the Licensee's technical contacts

4.6 Solution 7 may decline to provide the Support Services in Clause 4.1.1 to anyone except the Licensee's technical contacts whose names and contact details have been provided by the Licensee to Solution 7 and anyone that the Licensee notifies Solution 7 as replacing one of those technical contacts.

4.7 The Support Services are not provided for any version of the Solution 7 Software except the Current Version. If the Licensee requests support or assistance for any other version, and if Solution 7 agrees to supply that support or assistance, Solution 7 may charge for, and the Licensee will pay for, that support and assistance at Solution 7's rates in force at that time.

4.8 It is possible that the Licensee or an Affiliate may provide Solution 7 with, or with access to, Licensee Personal Data in the course of Solution 7 providing the Support Services or any Professional Service. If the Licensee or an Affiliate does so, the provisions of the Data Protection Schedule will apply.

4.9 It is in the interests of Data Subjects and consistent with the Licensee's and Affiliates' obligations under the Data Protection Legislation, that the Licensee and Affiliates do not provide the Licensee Personal Data to Solution 7 and do not provide Solution 7 with access to the Licensee Personal Data in circumstances where it is not necessary for Solution 7 to be provided with, or to have access to, that Licensee Personal Data for the Relevant Purpose.

4.10 Where it is not necessary for Solution 7 to have a copy of, or to have access to, any of the Licensee Personal Data for the Relevant Purpose, the Licensee:

4.10.1 will ensure that the Licensee Data provided to Solution 7 or to which Solution 7 is allowed access does not contain any Personal Data; and

4.10.2 where a copy of the Licensee Personal Data has been provided to Solution 7, irrevocably authorises Solution 7 to delete or destroy that copy.

4.11 Clauses 4.8, 4.9 and 4.10 do not apply to any Personal Data which Solution 7 Processes as a Controller. Solution 7 will use the contact details of the Licensee's and Affiliates' employees and contract staff and consultants provided to it by the Licensee in order to manage, administer and perform this Agreement and to invoice the Licensee. Solution 7 will do so as a Controller under the Data Protection Legislation. The Licensee warrants that it has, and will have, all rights and consents necessary to allow it to provide those contact details to Solution 7 for the purposes stated in this Clause 4.11.

## 5. Fees

5.1 Subject to Clause 5.2, the Licensee will pay Solution 7 the Licence Fee.

5.2 Solution 7 may revise the Licence Fee with effect from the end of each Licence Period to bring the Licence Fee into line with Solution 7's then standard licence fee. The revised Licence Fee will be payable by the Licensee if the Licensee or any Affiliate wishes to use or uses the Solution 7 Software for longer than the then current Licence Period.

5.3 The Licensee will reimburse Solution 7 for all travel, subsistence and other expenses incurred by Solution 7 or Solution 7's Personnel, subcontractors or Subprocessors in providing any of the Software or any services to the Licensee, provided that those expenses have been agreed in advance of being incurred. If the Licensee and Solution 7 are unable to reach such agreement on those expenses, Solution 7 will not be obliged to provide any service to the Licensee or any Affiliate if the provision of that service involves Solution 7's Personnel or subcontractors or Subprocessors incurring any such expenses.

5.4 All fees, charges and expenses payable under this Agreement are exclusive of any VAT, customs duties or other taxes or duties on the sale or supply and on the export and import of any goods or services. The Licensee will pay these in addition to the Licence Fee and other fees and charges payable under this Agreement.

5.5 The Licensee will pay, without any deduction, set off or withholding, all fees, charges and expenses payable under this Agreement within 30 days after the date of Solution 7's invoice for the same. If any deduction or withholding is required by law, the Licensee will pay Solution 7 such sum as will, after the deduction or withholding has been made, leave Solution 7 with the same amount as it would have been entitled to receive in the absence of any requirement to make a deduction or withholding. If the Licensee is required by law to make a deduction or withholding, the Licensee will, within seven days after making the deduction or withholding, provide Solution 7 with a statement in writing showing the gross amount of the payment, the amount of the sum deducted and the actual amount paid. Solution 7 may, without prejudice to any other right or remedy, terminate this Agreement, or suspend work under it if, within 14 days after receiving written notice of the Licensee's failure to pay in accordance with the terms of this Clause, the Licensee still fails to make those payments in full.

5.6 The Licensee will pay, on demand, interest calculated on a daily basis on all sums not paid within 30 days after the date of Solution 7's invoice and the costs of recovery in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, as amended by the Late Payment of Commercial Debts Regulations 2013. The Licensee will also pay Solution 7's reasonable expenses (on an indemnity basis) in connection with the Licensee's failure to pay any fees or charges when due, including legal expenses and the costs of collection.

5.7 On the termination of this Agreement, without prejudice to any other right or remedy available to either Party, the Licensee will pay all unpaid fees and charges accrued up to that date and all costs and expenses which Solution 7 has then already incurred or agreed to incur in connection with any work done or to be done for the Licensee or any Affiliate.



or agreed to incur in connection with any work done or to be done for the Licensee or any Affiliate.

5.8 The fees and charges payable under this Agreement are not refundable except pursuant to Clause 6.4 or 7.3.

## **6. Warranties**

6.1 Solution 7 warrants to the Licensee that Solution 7 is the owner of the Intellectual Property Rights in the Solution 7 Software or that it has the right to license the Licensee to use the Solution 7 Software provided the Licensee complies with, and ensures that each Affiliate complies with, this Agreement.

6.2 Subject to the Licensee and each Affiliate complying with Clause 2 and all monies payable by the Licensee to Solution 7 under this Agreement having been paid in full, Solution 7 warrants to the Licensee that: the Solution 7 Software (as made available to the Licensee by Solution 7 but excluding any Beta Functionality) will, for 90 days after the Delivery Date, function substantially in accordance with the Documentation when properly used on the equipment and an operating system specified in the Documentation; and Solution 7 will use reasonable skill and care in the performance of this Agreement. This warranty does not apply to any Trial Licence.

6.3 The Licensee and each Affiliate acknowledges that any Open-Source Software and any Beta Functionality is made available "as is", without any warranty from Solution 7 and is subject to the disclaimer in Clause 6.13, and that Solution 7 may withdraw any Beta Functionality at any time.

6.4 Provided the Licensee provides a copy of the Licensee Data and anything else needed to reconstruct the problem, Solution 7 will investigate any purported breach of the warranty in Clause 6.2 reported by the Licensee in writing within the period specified in Clause 6.2 and, where appropriate, Solution 7 will endeavour to correct that Error within a reasonable time, or to provide avoidance or remedial information, or Solution 7 will refund the Licence Fee paid by the Licensee for the Solution 7 Software.

6.5 Any refund of any Licence Fee made by Solution 7 to the Licensee will be in full and final settlement of all and any liability Solution 7 may have to the Licensee or any Affiliate (under this Agreement or in any other way in connection with the licensing, supply, development, implementation, configuration, support or maintenance of the Software) and will automatically terminate the Licence and any obligation to provide the Support Services or any Professional Service.

6.6 Solution 7 will not be liable under any warranty or any other provision of this Agreement to the extent that any failure of any of the Software to comply with any warranty, or to the extent that any error, defect, bug or deficiency in any of the Software, or Solution 7's failure to correct or delay in correcting it, results from the Licensee or any Affiliate not having complied with this Agreement, or from any other act or omission on the Licensee's or any Affiliate's part, on the part of any User or on the part of any other person. In particular, Solution 7 will be liable if any modification has been made to any of the Software by anyone except Solution 7.

6.7 Solution 7 will not be liable under any warranty or under any other provision of this Agreement to the extent that any loss or damage is caused by the Licensee's or any Affiliate's failure to implement, or the Licensee's or any Affiliate's delay in implementing, any upgrade, update, new release, revision, version or modification of any of the Software which would have remedied or mitigated the effects of any error, defect, bug or deficiency.

6.8 The Licensee will be responsible for notifying Solution 7 of any Error. When notifying Solution 7 of an Error, the Licensee must provide a documented example of it and all other information and materials needed to reproduce it including an example of where and when the Error occurred and a listing of the related input and output and a written explanation of the Error.

6.9 Because of the nature of software, Solution 7 does not warrant that any of the Software will be error free or that it will run without interruption, or that every Error, defect, bug or deficiency can be or will be corrected. The existence of any of Error, defect, bug or deficiency will not constitute a breach of this Agreement.

6.10 The Licensee and each Affiliate acknowledges and agrees that the proper use of the Software is dependent on the Licensee and each Affiliate and their respective Users exercising proper skill and care in inputting, importing and uploading data into the Software, the accuracy of any data processed by the Software and the checking and correct interpretation of any output provided by the Software. Solution 7 will not be liable for that output or for the consequences of decisions taken by the Licensee or any Affiliate or other person on the basis of that output.

6.11 The Licensee and each Affiliate acknowledges and agrees that the Software is standard software provided to Solution 7's licensees generally and it has not been developed to meet the Licensee's or any Affiliate's requirements and that it is the Licensee's and the Affiliates' responsibility to check that the facilities and functions of the Software meet their requirements.

6.12 The internet, world wide web, telecommunications networks and services and the Licensee Data are outside Solution 7's control, and Solution 7 will not be responsible or liable for any error, omission or delay in the same, or the inability to use such service, or for any content introduced by any such service.

6.13 The express undertakings and warranties given by Solution 7 in this Agreement are in lieu of all warranties, conditions, terms, undertakings and obligations on the part of Solution 7 implied by statute, common law, custom, trade usage, course of dealing or in any other way. All of these implied warranties, conditions, terms, undertakings and obligations are, to the extent permitted by law, excluded.

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6.14 The Licensee warrants that it has:

6.14.1 has and throughout the Trial Period and each Licence Period will continue to have, all rights and full authority to: (i) give any acknowledgement, undertaking or warranty given in this Agreement on behalf of each Affiliate; (ii) agree to the provisions of this Agreement on behalf of each Affiliate; (iii) procure the compliance of each Affiliate with this Agreement; (iv) give any consent, licence authorisation, instruction or waiver under this Agreement on behalf of each Affiliate; and (v) give or receive any notice under this Agreement on behalf of each Affiliate;

6.14.2 Controls and, throughout the Trial Period and each Licence Period will continue to Control, each Affiliate; and

6.14.3 not been induced to enter into this Agreement by any representation or by any warranty (whether oral, or in writing) except those specifically set out in this Agreement as warranties. The Licensee waives for itself and on behalf of and each Affiliate any and all claims for breach of any warranty and any and all claims for any misrepresentation, (negligent or of any other kind, unless made by Solution 7 fraudulently) not specifically set out in this Agreement as a warranty.

## **7. Intellectual Property Rights**

7.1 Solution 7 acknowledges that all Intellectual Property Rights in the Licensee Data are and will remain the Licensee's property. The Licensee will have sole responsibility for, and will ensure the legality, reliability, integrity, accuracy and quality of, the Licensee Data.

7.2 The Licensee and each Affiliate acknowledges that all Intellectual Property Rights in the Solution 7 Software and in all documentation relating to that software, as between the Licensee and Solution 7, are and will remain Solution 7's property or that of Solution 7's licensors and that Solution 7 may license others to use them.

7.3 If Solution 7 becomes aware of any claim or allegation to the effect that any of the Software or its licensing or distribution infringes the rights of any person, Solution 7 may, at its option: modify any of the Software; or procure for the Licensee and the Affiliates the right to continue to use the Software; or replace the Software; or terminate this Agreement and the Licence and refund a proportion of the Licence Fees paid by the Licensee for the Solution 7 Software for the then current Licence Period. That proportion will be calculated on the basis that the Licence Fee for the Solution 7 Software is pro-rated evenly over the then current Licence Period (if the whole of the Initial Licence Fee has been paid) or the then current year of the Licence (if the Licence Fee has been paid on an annual basis) and that the refund will reflect the proportion of, respectively, the then current Licence Period or the then current year left to run as at the termination of this Agreement under this Clause 7.3.

7.4 Clause 7.3 sets out all of Solution 7's liabilities and obligations and all of the Licensee's and each Affiliate's remedies in relation to any of the Software infringing any Intellectual Property Rights, any claim to that effect, in relation to any breach of the warranty in Clause 6.1, and any claim to that effect.

## **8. Termination**

8.1 Either Party may terminate this Agreement immediately on giving notice in writing to the other if:

8.1.1 the other (which includes in the case of the Licensee being given notice under this Clause 8.1, any Affiliate) commits any material or persistent breach of this Agreement and (in the case of a breach capable of being remedied) it has failed to remedy it within 30 days after receiving notice requiring it to remedy the breach. (A persistent breach is one that occurs three or more times in any 12 month period.); or

8.1.2 the other (which includes in the case of the Licensee being given notice under this Clause 8.1, any Affiliate) has a receiver or administrative receiver appointed over it or over any part of its undertaking or assets, or it passes a resolution for winding-up (except for the purpose of a bona fide scheme of solvent amalgamation or reconstruction), or if a court of competent jurisdiction makes an order to that effect, or if it becomes subject to an administration order, or if it enters into any voluntary arrangement with its creditors, or if it applies to a court for, or obtains, a moratorium in relation to its debts, or if any similar process to any of the above is begun in any jurisdiction, or if it ceases or threatens to cease to carry on business or its financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this Agreement is in jeopardy.

8.2 Solution 7 may suspend the performance of this Agreement by Solution 7 if any of the circumstances mentioned in Clause 8.1 arises. That suspension will not prejudice Solution 7's right later to terminate this Agreement, either for the same or for a different reason.

8.3 Either Party may terminate this Agreement by giving the other not less than 90 days' notice in writing, that notice to expire on the day immediately before an anniversary of the Delivery Date.

8.4 On the termination of this Agreement (however it happens), the Licensee's and each Affiliate's right to use the Solution 7 Software will immediately and automatically terminate, and the Licensee, all Affiliates and all Authorised Users will cease using the Solution 7 Software.

8.5 The termination of this Agreement (however it happens) will not affect any accrued rights or liabilities of any person, nor will it affect the coming into force or the continuing in force of any provision of this Agreement which is expressly, or by implication, intended to come into or to continue in force on or after termination.

8.6 Clauses 1, 2.10, 2.11, 2.16, 3, 4.4, 4.11, 5, 6 (except 6.1, 6.2 and 6.4), 7, 8.4, 8.5, 8.6, 9, 10.2, 11, 12, 13, 14, 15, 16, 17, 18 and 19 of this Agreement and Clauses 1, 8 and 9 of the Data Protection Schedule will survive the termination of this Agreement and continue in full force and effect without limit in time.

## **9. Confidentiality**

9.1 Solution 7 will keep confidential, and not use for any purpose except providing the Software and the Services to the Licensee, any Licensee Confidential Information which the Licensee or any Affiliate discloses or makes available to Solution 7. Solution 7 will notify the Licensee as soon as reasonably possible if Solution 7 becomes aware of any unauthorised use of any of the Licensee Confidential Information or breach of confidence relating to the Licensee Confidential Information by anyone.

9.2 The Licensee will keep, and will ensure that each Affiliate will keep, the Solution 7 Confidential Information confidential, and not use it for any purpose except exercising its rights under this Agreement. The Licensee will notify Solution 7 as soon as reasonably possible if the Licensee or any Affiliate becomes aware of any unauthorised use of any of the Solution 7 Confidential Information or breach of confidence relating to the Solution 7 Confidential Information by anyone. The Licensee will allow, and will ensure that each Affiliate allows, Solution 7 at any time to check that its or their use of the Software is in accordance with this Agreement and, for that purpose, the Licensee irrevocably licenses Solution 7 and its employees and agents, to enter any of the Licensee's and any of the Affiliates' premises, provided that such audit or inspection is carried out during the Licensee's normal working hours and on not less than 7 days' written notice given in advance.

9.3 The Licensee will not, and will ensure that none of the Affiliates will, without first obtaining Solution 7's written consent or in accordance with Clause 9.5, disclose any of the Solution 7 Confidential Information to anyone except:

9.3.1 their respective employees, contract staff and consultants working within their organisation for their benefit and then only to those employees, contract staff and consultants working within their organisation for their benefit who need to know or to have access to the Solution 7 Confidential Information in order to use the Software in accordance with this Agreement; or

9.3.2 their respective auditors, HM Revenue and Customs, any other tax authority, any regulatory body to which the Licensee or that Affiliate is subject, or any other person having a right, duty or obligation to know the Licensee's or that Affiliate's business, but then only in pursuance of that right, duty or obligation.

The Licensee will ensure that the people mentioned in this Clause 9.3 are made aware, before the disclosure to them of any of the Solution 7 Confidential Information, that it is confidential to Solution 7 and that they owe a duty of confidence to Solution 7.

The Licensee will give, and will ensure that each Affiliate gives Solution 7 all assistance reasonably required by Solution 7 in connection with any action or proceedings which it may institute against that person for breach of confidence.

9.4 Solution 7 will not, without first obtaining the Licensee's written consent, disclose any of the Licensee Confidential Information to anyone except:

9.4.1 Solution 7's Personnel, subcontractors and Subprocessors who need to know or to have access to the Licensee Confidential Information in order to perform this Agreement or exercise Solution 7's rights under this Agreement; or

9.4.2 Solution 7's auditors, HM Revenue and Customs, any other tax authority, any regulatory body to which Solution 7 is subject, or any other person having a right, duty or obligation to know Solution 7's business, but then only in pursuance of that right, duty or obligation.

Solution 7 will ensure that the people mentioned in this Clause 9.4 are made aware, before the disclosure to them of any of the Licensee Confidential Information, that it is confidential to the Licensee and that they owe a duty of confidence to the Licensee.

Solution 7 will give the Licensee all assistance reasonably required by the Licensee in connection with any action or proceedings which it may institute against that person for breach of confidence.

9.5 If the Licensee or any Affiliate is subject to any freedom of information or similar legislation, it may make any disclosure that it is obliged to make under that legislation provided: (i) the Licensee informs Solution 7 as soon as reasonably possible of the requirement to make any such disclosure; (ii) the Licensee takes and ensures that the relevant Affiliate takes, any and all reasonable steps requested by Solution 7 to limit lawfully the information so disclosed; and neither the Licensee nor any Affiliate makes any disclosure of any information which is exempt from disclosure under that legislation.

## **10. The Licensee's Information and Facilities**

10.1 The Licensee will provide, and will ensure that each Affiliate provides, Solution 7, free of charge, with all information, materials, documentation, resources and facilities reasonably requested by Solution 7 to allow Solution 7 to perform this Agreement. The Licensee will ensure that its and each Affiliate's Authorised Users, staff, contractors and other suppliers co-operate fully with Solution 7 and cause no delay. Where Solution 7 requests the Licensee or any Affiliate to provide information or to take a

fully with Solution 7 and cause no delay. Where Solution 7 requests the Licensee or any Affiliate to provide information or to take a decision, the Licensee will do so, and will ensure that that each Affiliate does so, promptly and so as not to cause any delay.

10.2 The Licensee is solely responsible for:

10.2.1 it and each Affiliate procuring and maintaining equipment, operating systems and software (except the Software), data feeds, network connections and telecommunications links from its systems necessary to allow it to use the Software in a way which meets the Licensee's and each Affiliate's requirements;

10.2.2 all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to any of that or those equipment, operating systems and software (except the Software), data feeds, network connections and telecommunications links from its systems; and

10.2.3 without prejudice to Clause 10.2.1, obtaining and maintaining a current licence which allows the Licensee and the Affiliates to use the Third Party Software and any other third party software which may be necessary to allow the Licensee and each Affiliate to use the Software in a way which meets the Licensee's and each Affiliate's requirements.

## 11. Entire Agreement and Amendments

11.1 This Agreement supersedes all earlier agreements, arrangements and understandings between the Parties in respect of its subject matter, and constitutes the complete agreement between them relating to that subject matter, but this Agreement (except any provisions of this Agreement that survive the termination of this Agreement) will be superseded by any agreement signed on behalf of each of the Parties, relating to the subject matter of this Agreement and expressed to supersede this Agreement, even if that agreement is signed on behalf of each of the Parties before the Licensee or any employee, member of the contract staff, consultant or an auditor of the Licensee or an Affiliate agrees when installing the Software.

11.2 No addition to, or modification of, any provision of this Agreement will be binding on either Party unless recorded in writing and signed (including by means of an electronic signature) by a duly authorised representative of each of them.

11.3 The amendment, termination or rescission of this Agreement will not require the agreement or consent of any Affiliate and Solution 7 and the Licensee are free to agree any amendment, termination or rescission of this Agreement as they see fit, subject only to Clause 11.2.

## 12. Notices

All notices given by Solution 7 under this Agreement will be in writing and be sent to the contact address or e-mail address of the Licensee set out in the Registration Form or any other contact address or e-mail address that the Licensee designates by notice given to Solution 7 in accordance with this Clause 12. Any notice given by the Licensee under this Agreement must be in writing and sent to Solution 7's registered office or contact e-mail address given on Solution 7's website, or any other address or e-mail address that Solution 7 designates by notice given to the Licensee in accordance with this Clause 12. Any notice may be delivered by hand, by courier, by first class pre-paid letter or by e-mail and will be deemed to have been received: if delivered by hand or courier, when delivered; if sent by first class post, 72 hours after posting; and if sent by e-mail, on that e-mail being accessible by the intended recipient.

## 13. Limitations and Exclusions of Liability

13.1 Subject to Clause 13.4, Solution 7's aggregate total liability for all and any claims in connection with the Software, the Support Services, any Professional Service and the performance or non-performance of this Agreement, whether in contract, or tort (including negligence) or arising in any other way, will not exceed the Licence Fee paid by the Licensee for the Licence Period immediately preceding the date on which the claim is first notified by the Licensee to Solution 7.

13.2 Despite anything else contained in this Agreement (except Clause 13.4), Solution 7 will not be liable to the Licensee or any Affiliate or to any other person for any of the following, for any of the following, in each case whether arising from negligence, or breach of contract, or in any other way, even if Solution 7 had been advised of, or knew of, the likelihood of that loss or type of loss arising:

- 13.2.1 loss of profits;
- 13.2.2 loss of savings;
- 13.2.3 loss of use;
- 13.2.4 loss of business;
- 13.2.5 loss of opportunity;
- 13.2.6 loss or spoiling of data;
- 13.2.7 loss of contracts,

(in each case whether direct or indirect); and

- 13.2.8 indirect or loss or damage;
- 13.2.9 consequential, incidental or special loss or damage;



- 13.2.10 punitive damages; and
- 13.2.11 liquidated losses or damages.

13.3 The Licensee and each Affiliate acknowledges that the above limitations and exclusions of Solution 7's liability are reasonable in the light of Solution 7's insurance arrangements and that Solution 7 is willing to accept a higher limitation on its liability provided it is able to obtain full insurance cover for its liabilities and the Licensee pays the costs of obtaining and maintaining any increased cover.

13.4 Nothing in this Agreement limits or excludes Solution 7's liability for death or personal injury caused by its negligence or for fraud or any liability that the law does not permit to be excluded or limited.

13.5 Solution 7 will not be liable for any failure of the Solution 7 Software to operate with equipment or operating system or any data feed not specified in the Documentation or for any degradation in performance or reduction in functionality caused by the use of the Solution 7 Software with any operating system, equipment or data feed not specified in the Documentation.

13.6 The Licensee will be liable to Solution 7 for any and all damages, losses, liabilities and expenses suffered or incurred by Solution 7 as a result of the act or omission of each Affiliate and each Authorised User as though that act or omission were the Licensee's own act or omission.

13.7 Any failure to comply with this Agreement by any Affiliate or any Authorised User, and any failure of any Authorised User to comply with any acceptable use policy issued by Solution 7 from time to time, will be deemed to be a breach of this Agreement by the Licensee.

13.8 Subject to Clause 13.4, Solution 7 will have no liability to any Affiliate or any Authorised User, each Affiliate irrevocably waives any claim which it may have against Solution 7, and the Licensee will indemnify Solution 7 against any and all losses, damages, costs and expenses incurred by Solution 7 in connection with all and any claims brought against Solution 7 by any Affiliate or by any Authorised User (or both).

#### **14. Delays**

14.1 Despite anything else contained in this Agreement, Solution 7 will not be liable for any delay in performing or failure to perform its obligations caused by circumstances beyond its control (including any epidemic or pandemic, act or omission on the Licensee's part or on the part of any Affiliate, any User or any other person, and any bug, defect, error, fault or deficiency in any software or data not provided by Solution 7, or in any equipment), and Solution 7 will be granted a reasonable extension of time for the performance of its obligations.

14.2 Solution 7 will endeavour to comply with any timetable, project plan or dates which it has given to the Licensee for the performance of this Agreement but they are estimates only, and Solution 7 will not be liable for any delay or failure to supply or perform in accordance with that timetable or project plan, or those dates.

#### **15. Assignment**

Neither the Licensee nor any Affiliate may assign, or transfer, or sub-contract this Agreement or sub-license any of its rights or obligations under it, whether in whole or in part, without first obtaining Solution 7's written consent.

#### **16. Severability**

If any part of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of this Agreement will not be affected.

#### **17. Waiver**

No forbearance or delay by any person in enforcing its rights will prejudice or restrict those rights. No waiver of any right will operate as a waiver of any later right or breach. No right, power or remedy conferred on, or reserved to, any person is exclusive of any other right, power or remedy available to it, and each of those rights, powers, and remedies is cumulative.

#### **18. Law**

This Agreement and its validity are governed by, and this Agreement is to be construed in accordance with, the laws of England and Wales. The Licensee irrevocably agrees to submit to the jurisdiction of the English Courts or any other courts Solution 7 chooses in order to protect or enforce Solution 7's Intellectual Property Rights or Confidential Information or where any of the Licensee's assets are located.

#### **19. Partnership and Third Parties**

19.1 Nothing in this Agreement creates, evidences or implies any partnership or joint venture between the Parties or between Solution 7 and any Affiliate, or the relationship between them of principal and agent. Any third party that provides any help desk or Professional Service to the Licensee or any Affiliate is acting as principal and not as Solution 7's agent. Solution 7 will not be liable to the Licensee, any Affiliate or anyone else for the acts or omissions of others.



the Licensee, any Affiliate or anyone else for the acts or omissions of others.

19.2 No one except the Parties has any rights or is entitled to the benefit of this Agreement by virtue of the Contracts (Rights of Third Parties) Act 1999 or otherwise. The amendment, termination or rescission of this Agreement will not require the agreement or consent of any Affiliate.

# DATA PROTECTION SCHEDULE

1. The provisions of this Schedule are in addition to, and do not relieve, remove or replace, either Party's or any Affiliate's obligations under the Data Protection Legislation.
2. In addition to the definitions in the Terms and Conditions, the following expressions have the meanings set opposite:

**Consent:**

consent, permission, agreement or approval which meets the requirements for consent in the Data Protection Legislation;

**a Data Protection Impact Assessment:**

has the meaning given to that expression in the Data Protection Legislation;

**a Data Protection Officer:**

a person designated as such by either Party in accordance with the requirements of the Data Protection Legislation;

**a Personal Data Breach:**

has the meaning given to that expression in the Data Protection Legislation;

**a Processor:**

has the meaning given to that expressions in the Data Protection Legislation;

**a Representative:**

a person designated as such by the Licensee in accordance with the requirements of the Data Protection Legislation; and

**Special Category Personal Data:**

has the meaning given to that expression in the Data Protection Legislation.

3. The subject matter and duration of the Processing, the nature and purpose of the Processing, the types of Personal Data Processed and the categories of Data Subjects are set out in the Appendix to this Schedule.

4. The Parties acknowledge that, for the purposes of Solution 7 Processing the Licensee Personal Data, Solution 7 will be the Licensee's Processor and the Licensee will be the Controller.

5. The Licensee will comply with, and will procure that each Affiliate complies with, all the duties and obligations imposed from time to time on Controllers by the Data Protection Legislation and, without prejudice to the foregoing, the Licensee:

5.1 in respect of any and all Personal Data which the Licensee or any Affiliate provides or makes available to Solution 7, warrants and undertakes that the Licensee's or that Affiliate's Processing, including the transfer to Solution 7 of that Personal Data is and will be carried out in accordance with Data Protection Legislation;

5.2 will establish and document the legal basis on which the Licensee and each Affiliate Processes any and all of the Licensee Personal Data and any additional condition necessary to allow the Processing of any Special Category Personal Data;

5.3 will, and will procure that each Affiliate will, provide Data Subjects with all information necessary to, and obtain any and all Consents from Data Subjects necessary to, allow the Licensee and any Affiliate to: Process their Personal Data lawfully; transfer their Personal Data to Solution 7; and have Solution 7 Process their Personal Data in accordance with this Schedule, including any automated decision making or profiling carried out by Solution 7 on the Licensee's or any Affiliate's instructions or at the Licensee's or any Affiliate's request;

5.4 will provide Solution 7 with: details of the legal basis on which the Licensee and each Affiliate Processes any and all of the Licensee Personal Data; details of the condition(s) met to allow the Processing of Special Category Personal Data; copies of the information the Licensee and each Affiliate has provided to Data Subjects about that Processing; and copies of any and all Consents obtained from any Data Subject in respect of that Processing;

5.5 if the legal basis for Processing any of the Licensee Personal Data is the Data Subject's Consent, and that Consent is withdrawn, or if any Data Subject objects to any Processing of his or her Personal Data carried out by Solution 7 for the Licensee or any Affiliate, the Licensee will immediately give notice of that withdrawal or objection and of the Licensee Personal Data affected to Solution 7 and Solution 7 may, without liability, stop Processing that Licensee Personal Data and, if any of that Licensee Personal Data is held by Solution 7, delete it unless, in either case the Licensee demonstrates to Solution 7 that Solution 7's continued Processing of that Licensee Personal Data will be lawful;

5.6 will provide Solution 7 with such instructions regarding the Processing of the Licensee Personal Data as may be necessary to allow Solution 7 to Process the Licensee Personal Data in order to provide the Software and the Services under and in accordance with this Agreement and not give Solution 7 any unlawful instruction. (The initial instructions are set out in the Appendix to this Schedule.);

5.7 will not instruct Solution 7 to transfer any of the Licensee Personal Data outside the United Kingdom or to an international organisation unless: i) the Licensee asks Solution 7 to transfer it to a country which ensures an adequate level of protection for personal data as determined under adequacy regulations made under the UK Data Protection Act 2018 or in accordance with any transitional provisions which apply after the end of the UK-EU Brexit transition period; or ii) the Licensee has implemented appropriate safeguards and has provided Solution 7 with details of any safeguards which the Licensee has implemented to ensure that the transfer is not in breach of the Data Protection Legislation, including entering into standard clauses made under the Data Protection Act 2018 or in accordance with any transitional provisions which apply after the end of the UK-EU Brexit transition period;

5.8 will implement adequate security processes and protocols in relation to granting Solution 7 remote access to any Personal Data on the Licensee's or any Affiliate's systems and will ensure that any ability for any of Solution 7's Personnel to access the Licensee's or any Affiliate's systems or any data on them is withdrawn at the end of each remote access session;

5.9 will carry out any Data Protection Impact Assessments in respect of the Processing of the Licensee Personal Data necessary to comply with the Data Protection Legislation; and

5.10 if required by the Data Protection Legislation, will appoint a Data Protection Officer and a Representative, and will provide Solution 7 with contact details of the Licensee's Data Protection Officer and its Representative.

6. Solution 7 will, when Processing any of the Licensee Personal Data, comply with the Data Protection Legislation insofar as it specifically imposes duties and obligations on Processors and, in relation to any of the Licensee Personal Data, for so long as Solution 7 Processes that Licensee Personal Data, Solution 7 will:

6.1 Process the Licensee Personal Data only in accordance with the reasonable and lawful instructions given by the Licensee in writing to Solution 7 from time to time, including with regard to transfers of the Licensee Personal Data outside the United Kingdom or to an international organisation, unless Solution 7 is required to transfer the Licensee Personal Data by any law to which the Solution 7 is subject. In that case, Solution 7 will inform the Licensee of that legal requirement before transferring the relevant Licensee Personal Data outside the United Kingdom or to an international organisation, unless any law to which the Solution 7 is subject prohibits Solution 7 from providing that information. (Any instruction given to Solution 7 will be reasonable only if it is necessary to allow the Licensee or any Affiliate to comply with its obligations to Data Subjects under the Data Protection Legislation.);

6.2 taking into account: the state of the art; the costs of implementation; the nature, scope, context and purposes of the Processing by Solution 7; the risk of varying likelihood and severity for the rights and freedoms of Data Subjects; and the risks presented by Processing (in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Licensee Personal Data), take appropriate technical and organisational measures to ensure a level of security for the Licensee Personal Data appropriate to the risk; the ability to ensure the ongoing confidentiality, integrity, availability and resilience of the systems used to Process the Licensee Personal Data; the ability to restore the availability and access to the Licensee Personal Data in a timely manner in the event of a physical or technical incident; and a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the Processing of the Licensee Personal Data;

6.3 take reasonable steps to ensure that any of Solution 7's Personnel authorised by Solution 7 to Process any of the Licensee Personal Data has committed him or herself to keep that Licensee Personal Data (except in relation to any Licensee Personal Data which are in the public domain) confidential or is under an appropriate statutory obligation of confidentiality;

6.4 take reasonable steps to ensure that any individual acting under Solution 7's authority and who has access to any of the Licensee Personal Data does not Process them except in accordance with the reasonable and lawful instructions given by the Licensee in writing to Solution 7 from time to time, unless he or she is required to do so by the law applicable to Solution 7;

6.5 notify the Licensee of any Personal Data Breach affecting the Licensee Personal Data without undue delay after Solution 7 becomes aware of it;

6.6 not transfer any of the Licensee Personal Data outside the United Kingdom unless: i) to a country which ensures an adequate level of protection for personal data as determined under adequacy regulations made under the UK Data Protection Act 2018 or in accordance with any transitional provisions which apply after the end of the UK-EU Brexit transition period; or ii) the Licensee has implemented appropriate safeguards and has provided Solution 7 with details of any safeguards which the Licensee has implemented to ensure that the transfer is not in breach of the Data Protection Legislation, including entering into standard clauses made under the Data Protection Act 2018 or in accordance with any transitional provisions which apply after the end of the UK-EU Brexit transition period;

6.7 keep records of its Processing of the Licensee Personal Data including: the Licensee's name and contact details; the name and

contact details of the Licensee's and Solution 7's respective Data Protection Officers (if any); the name and contact details of the Licensee's Representative (if any); the categories of Processing of the Licensee Personal Data; details of transfers of any of the Licensee Personal Data outside the United Kingdom (including, where applicable, the documentation of suitable safeguards taken by the Licensee); and a general description of the technical and organisational security measures taken by Solution 7. If requested by the Licensee, Solution 7 will make that information available to the Licensee to help demonstrate Solution 7's compliance with its obligations under this Clause 6;

6.8 taking into account the nature of the Processing of the Licensee Personal Data carried out by Solution 7 and the information available to Solution 7, insofar as is reasonably possible, Solution 7 will, if requested by the Licensee, assist the Licensee with compliance with the Licensee's and each Affiliate's obligations in relation to data security, the notification of Personal Data Breaches to the relevant data protection supervisory authority and (where required by the Data Protection Legislation) Data Subjects, carrying out Data Protection Impact Assessments and the Licensee's and each Affiliate's obligations to respond to requests for exercising Data Subject's rights (such as the right to information and access to, and the rectification and erasure of, their Personal Data that is included in the Licensee Personal Data);

6.9 allow the Licensee (or a person appointed by the Licensee) to audit and inspect Solution 7's Processing of the Licensee Personal Data, provided any such audit or inspection is carried out during Solution 7's normal working hours and on not less than 7 days' written notice given in advance; and

6.10 if requested by the Licensee, delete or provide the Licensee Personal Data to the Licensee on the termination of this Agreement and delete all copies of the Licensee Personal Data held by Solution 7, except any copy which Solution 7 needs to retain for legal purposes.

7. The Licensee consents to Solution 7 using Subprocessors. The Licensee may obtain a list of Solution 7's current Subprocessors by writing to [info@Solution7.co.uk](mailto:info@Solution7.co.uk). Solution 7 will notify the Licensee at least 7 days in advance of its intention to appoint any additional or replacement Subprocessor. If Solution 7 engages a Subprocessor to carry out specific processing activities on behalf of the Licensee, Solution 7 will impose the same data protection obligations as are set out in this Schedule on that Subprocessor, and Solution 7 will, if that Subprocessor fails to fulfil its data protection obligations, be fully liable to the Licensee for the performance of that Subprocessor's obligations, subject to the exclusions and limitations of Solution 7's liability in this Agreement.

8. The Licensee will indemnify Solution 7 and will keep Solution 7 indemnified against any and all fines and penalties incurred by Solution 7 and against any and all costs, expenses, damages and liabilities awarded against or incurred by Solution 7 as a result of any Processing of any of the Licensee Personal Data in breach of the Data Protection Legislation, except to the extent that any such fine, penalty, costs, expenses, damages or liability is the direct result of Solution 7 not having complied with the duties and obligations specifically imposed on Processors by the Data Protection Legislation or Solution 7 having Processed any of the Licensee Personal Data contrary to the lawful and reasonable instructions given by the Licensee to Solution 7.

9. Solution 7 may increase the fees payable by the Licensee or charge the Licensee additional fees in line with Solution 7's then standard rates plus VAT in the event of any or all of the following: if the Licensee changes the instructions given to Solution 7 in relation to the Processing of any of the Licensee Personal Data and Solution 7 carries out additional work in order to comply with those instructions; Solution 7 provides assistance pursuant to Clause 6.8 of this Schedule; or Solution 7 carries out additional work in connection with any audit. Solution 7 may also increase the fees payable by the Licensee or charge the Licensee additional fees in line with Solution 7's then standard rates plus VAT to recoup any and all additional costs and expenses incurred by Solution 7 as a result of any or all of the following: the Licensee changing the instructions given to Solution 7 in relation to the Processing of any of the Licensee Personal Data; Solution 7 providing assistance pursuant to Clause 6.8 of this Schedule; or Solution 7 being audited.

# THE APPENDIX

## **The Subject Matter of the Processing**

Personal Data included in the Licensee Data which the Licensee or any Affiliate has provided or made available to Solution 7

## **The Duration of the Processing**

The duration of this Agreement

## **The Nature and Purpose of the Processing**

In order to provide the Software or the Services (or both) under this Agreement

## **The Types of Personal Data Processed may include:**

- Names
- Race or ethnicity
- Email addresses
- Criminal Convictions

- Postal addresses
- Income
- Telephone Numbers
- Payroll and tax information
- Fax Number
- Banking information
- Date of birth or age
- Pension information
- Gender
- Geolocation data
- Job title
- Data logs
- Details of employer/place of work
- CVs
- Employment history
- Qualifications
- Personal Identification Numbers
- Images
- Authentication Credentials
- Transaction details
- Health Information
- Shareholdings
- Directorships and other offices
- Donations

**The Categories of Data Subjects to whom the Licensee Personal Data relate may include:**

- Customers
- Prospects
- Directors
- Shareholders
- Donors
- Suppliers
- Employees
- Vendors
- Investors
- Volunteers
- Patients

**The Licensee's Initial Instructions**

(Clause 5.6 of this Schedule refers)

- To access any Personal Data that the Licensee or any Affiliate provides or makes available to Solution 7.
- To delete or destroy any Personal Data that Solution 7 does not need.
- To use for the purpose(s) of providing the Software or any Service (or both) or otherwise complying with this Agreement any Personal Data that the Licensee or any Affiliate provides or makes available to Solution 7.
- To allow any Subprocessor to do any of the above.