



SAAS & LICENSED SOFTWARE END USER TERMS

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**Envision IT Inc. (Supplier)
Software as a Service (SaaS) and Licensed Software
End User Terms and Conditions**

Last updated 21 July 2021

1 Terms and conditions

1.1 Acceptance of terms and conditions:

- (a) The Customer accepts the terms and conditions in effect at the time of supply of the SaaS or Licensed Software.
- (b) The Supplier may update these terms and conditions at any time on one month's written notice to the Customer except that where a Fixed Term applies the updated terms and conditions will not apply for the remainder of the current Fixed Term but will apply for the renewal of that Fixed Term (if any) and any ongoing use beyond the end of the current Fixed Term (as applicable).
- (c) Without limiting clause 1.1(b), the Customer's continued use of the SaaS or Licensed Software confirms the Customer's acceptance to be bound by the latest terms and conditions.
- (d) Any additional or different terms that the Customer may stipulate or state in any communication with the Supplier will not be binding on the Supplier or included in the Agreement unless expressly agreed in writing by the Supplier.

1.2 The 'Agreement' comprises the Customer Information, Selected Options, Relevant Pricing and these terms and conditions (as updated from time to time under clause 1.1(b) above).

1.3 These terms and conditions apply to:

- (a) customers that purchase SaaS (or on whose behalf SaaS is purchased); and
- (b) customers that purchase Licensed Software (or on whose behalf Licensed Software is purchased),

and in either case, if there is a trial period available, these terms and conditions also apply to that trial period.

1.4 The SaaS and Licensed Software is available from the Supplier directly and from Authorized Partners and is available at various Purchase Locations. Regardless of where the purchase is made, these terms and conditions apply as between the Supplier and the Customer.

1.5 All capitalized terms used in these terms and conditions have the meanings given to them in the definition section in clause 20.

1.6 Where someone other than the Customer purchases SaaS or Licensed Software on behalf of the Customer that person is deemed to have authority to accept these terms and conditions for the Customer.

2 Trial

2.1 If a Trial is available to the Customer and the Customer elects to use the SaaS or Licensed Software (as applicable) for a Trial, the Customer acknowledges that use of SaaS or the Licensed Software (as applicable) for the Trial is subject to these terms and conditions.

2.2 Trial period

(a) The Trial will commence when the Trial SaaS or Trial Licensed Software (as applicable) is made available to the Customer. In order for the Trial SaaS or Trial Licensed Software (as applicable) to be available to the Customer, the Customer will need to follow the steps outlined to the Customer by the Supplier, the Authorized Partner or at the Purchase Location, and accept these terms and conditions. The Customer acknowledges that the Trial is for the version of SaaS or Licensed Software (as applicable) made available under the free trial offer. The free trial will end on expiration of the Trial Period, unless terminated earlier under these terms and conditions.

2.3 Provisioning for Trial

(a) The Supplier will provide the Trial SaaS or Trial Licensed Software (as applicable) to the Customer in accordance with these terms and conditions. The Supplier will:

- i. provide the Customer with access to the Trial SaaS or Trial Licensed Software (as applicable);
- ii. provide assistance with use of the SaaS or Licensed Software as reasonably requested by the Customer (or the Supplier will procure the Authorized Partner to provide assistance). The assistance will be available from the Customer during the hours notified by the Supplier, or the hours notified by the Authorized Partner or at the Purchase Location (as applicable). If no hours are notified, the Supplier or relevant Authorized Partner will use reasonable endeavours to provide assistance during their working day.

2.4 Common terms apply: Except for clauses 3, 4, 6 and 7, all clauses of these terms and conditions apply to Trials (in addition to this clause 2).

3 SaaS

This clause 3 applies if you purchase SaaS. See clause 4 if you purchase Licensed Software.

3.1 Provision of SaaS: The Supplier will provide the SaaS to the Customer in accordance with the Agreement. The SaaS is provided to the Customer on a non-exclusive basis and the

Customer's right to use the SaaS is not transferable. The Supplier will provide log on access to the Customer to enable the Customer to access and use the SaaS.

3.2 Term: The SaaS will be supplied from the time that the Customer purchases the SaaS (and the Agreement commences at that time) and will continue for the remainder of the term of the Agreement, refer to clause 7.1 below.

3.3 SaaS Availability: The availability of the SaaS is dependent on factors outside of the Supplier's control and as such the Supplier cannot and does not warrant that the SaaS will be continuously available or available without interruption. Where emergency maintenance is necessary or where unplanned outages occur, this will be notified to the Customer as soon as possible after coming to the Supplier's attention. Without limiting the factors which may mean the SaaS is unavailable to the Customer, the Customer acknowledges that the SaaS will or may not be available where any of the Exception Factors in clause 3.4 apply.

3.4 Exception Factors: The Exception Factors are:

- (a) Planned Maintenance;
- (b) lack of availability or outages of telecommunications networks (Supplier to provide evidence);
- (c) where the availability of the SaaS is dependent on a third party infrastructure service or third party data centre, lack of availability or outages of that third party service or data centre (Supplier to provide evidence);
- (d) a network or device failure external to the Supplier's or its third party provider's data centers, including at Customer's site or between the Customer's site and the Supplier's or third party's data centers;
- (e) issues resulting from the Customer's use of infrastructure (including IaaS), software or services (other than the SaaS) including issues related to the Customer's Integrated Services and Products;
- (f) any third party act, omission or circumstance which results in unavailability of the SaaS, whether malicious or not (other than where the third party is a subcontractor engaged by the Supplier); and
- (g) a Force Majeure Event.

3.5 Security Breach

- (a) Without limiting any other legal obligations that the Supplier may have in the event of a security breach, the Supplier represents that it has used and will continue to use reasonable endeavours in designing and/or utilizing the SaaS Systems and in operating and managing the SaaS so as to minimize the risk of a Security Breach.

- (b) In the event of any Security Breach:
 - i. the Supplier will, subject to all applicable laws, notify the Customer as soon as practicable after the Supplier becomes aware of the Security Breach;
 - ii. the Customer will notify the Supplier as soon as practicable, but no later than 24 hours after the Customer becomes aware of the Security Breach;
- (c) subject to all applicable laws, immediately following notification of a Security Breach under clause 3.5(a) or (b) above, the parties will coordinate with each other to investigate the Security Breach. The Supplier will cooperate with the Customer in the Customer's handling of the matter, including, without limitation by assisting with any investigation, providing the Customer with physical access to the facilities and operations affected to the extent reasonably practical, facilitating interviews with the Supplier's employees and others involved in the matter and making available all relevant records, logs, files, data reporting and other materials required to comply with applicable law, regulation, industry standards or as otherwise reasonably required by Customer.

3.6 Data

- (a) The Customer warrants that the Customer has the right and authority to deal with the Data in the manner contemplated by the Agreement.
- (b) The Customer is responsible for:
 - i. all Data entry requirements; and
 - ii. except as expressly provided otherwise in the Agreement, for all aspects of the Customer's access and use of the SaaS; and
 - iii. managing the Permitted Users in respect of their use of the SaaS and managing any changes to the Permitted Users;
 - iv. ensuring that Permitted Users keep all login details for the SaaS confidential and do not share their login details; and
 - v. ensuring that, in using the SaaS, the Customer and all Permitted Users comply with all applicable laws. To the extent permitted by law, the Supplier accepts no responsibility for ensuring that use of the SaaS will result in the Customer complying with applicable laws or enable the Customer to comply with applicable laws (including for example and without limitation, laws requiring records to be stored in a particular jurisdiction).
- (c) Nothing in the Agreement transfers ownership of the Data to the Supplier or to any Authorized Partner.
- (d) All Data is available to the Customer:
 - i. for the term of the Agreement, via the SaaS;

- ii. on request to the Supplier at any time during the term of the Agreement and for a period of twelve months following expiration or termination of the Agreement.

3.7 Support: The Supplier (or if the Customer purchases the SaaS from an Authorized Partner, that Authorized Partner) will provide assistance in resolving issues in respect of the Customer's access or use of the SaaS, on receiving a request for assistance from the Customer. This assistance does not extend to any issues arising with access or use of the SaaS that in the Supplier's reasonable opinion are due to an Exception Factor or otherwise due to the Customer's or any third party's services or products including where the SaaS is dependent on or integrated in any way with those services or products (including the Customer's Integrated Products and Services). The support under this clause will be available during the hours notified by the Supplier or Authorized Partner (as applicable) or at the Purchase Location. If no hours are notified, the Supplier or Authorized Partner (as applicable) will use reasonable endeavours to provide the support during their working day. The Supplier or relevant Authorized Partner (as applicable) may charge the Customer, at their respective standard rates, for any assistance requested by the Customer as SaaS support but which is beyond the assistance described in this clause.

3.8 Common terms apply: Except for clauses 2 and 4, all clauses of these terms and conditions apply to the SaaS (in addition to this clause 3).

4 Licensed Software

This clause 4 applies if you are purchasing Licensed Software. See clause 3 if you are purchasing SaaS.

4.1 Grant of License: The Supplier grants to the Customer a non-exclusive, non-transferrable license to use the Licensed Software.

4.2 License limitations: The license granted under clause 4.1 is subject to the limitations and conditions (if any) that are:

- (a) agreed in writing between the Customer and the Supplier or relevant Authorized Partner (as applicable) prior to the purchase by the Customer; or
- (b) notified to the Customer at the Purchase Location and agreed to by the Customer, prior to the purchase by the Customer.

The limitations could include such items as a limitation on the purpose for which the Licensed Software can be used, a limit on the number of users or who the users can be or a limitation on the number of devices on which the Licensed Software can be installed.

4.3 Term of License: The license granted under clause 4.1 will commence when the Customer downloads or otherwise receives delivery of the Licensed Software (and the Agreement commences at that time) and will continue for the remainder of the term of the Agreement, refer to clause 6 below.

4.4 Backup: The Customer is entitled to make one back-up copy of the Licensed Software unless agreed otherwise with the Supplier or Authorized Partner or the notifications at the Purchase Location permit more than one back-up copy. The Customer is not entitled to store the back-up copy by installing it ready for use. Any back up copy of the Licensed Software is in all respects subject to these terms and conditions and is deemed to form part of the Licensed Software for the purposes of the Agreement.

4.5 Maintenance and support:

(a) The Supplier will at its discretion release updates of the current version of the Licensed Software which will be made available to the Customer provided the Customer is up to date with payment of Relevant Pricing.

(b) The Supplier (or if the Customer purchases the Licensed Software from an Authorized Partner, that Authorized Partner) will provide assistance in resolving issues in respect of the Customer's use of the Licensed Software, on receiving a request for assistance from the Customer. This assistance does not extend to any issues arising with use of the Licensed Software that in the Supplier's reasonable opinion are due to the Customer's or any third party's services or products including where the Licensed Software is dependent on or integrated in any way with those services or products (including the Customer's Integrated Products and Services). The support under this clause will be available during the hours notified by the Supplier or Authorized Partner (as applicable) or at the Purchase Location. If no hours are notified, the Supplier or Authorized Partner (as applicable) will use reasonable endeavours to provide the support during their working day. The Supplier or relevant Authorized Partner (as applicable) may charge the Customer, at their respective standard rates, for any assistance requested by the Customer as Licensed Software support but which is beyond the assistance described in this clause.

4.6 Common terms apply: Except for clauses 2 and 3, all clauses of these terms and conditions apply to the Licensed Software (in addition to this clause 4).

5 SaaS and Licensed Software Dependencies

5.1 The Customer acknowledges that the SaaS and Licensed Software are dependent on proper implementation and availability and correct functioning of the Customer's Integrated Services and Products.

5.2 Neither the Supplier nor any Authorized Partner has any responsibility or liability to the Customer, and in any event no obligation to refund or reduce amounts paid by the Customer, for incorrect or unexpected functioning, or failure, of the SaaS or Licensed Software where that incorrect or unexpected functioning, or failure, is directly or indirectly due to incorrect or inappropriate implementation or incorrect functioning, or lack of availability of the Customer's Integrated Services and Products.

6 Charges and payment

- 6.1 The Customer will pay the Relevant Pricing for the SaaS or Licensed Software (as applicable) to the Supplier, the Authorized Partner or via the Purchase Location (as applicable) in accordance with the timing agreed in writing between the Customer and the Supplier, between the Customer and the Authorized Partner or as accepted by the Customer at the Purchase Location. All payments must be made in full without deduction or set-off.
- 6.2 All applicable value added taxes will be charged and payable in addition to the Relevant Pricing.
- 6.3 If any amount is not paid by the due date, the Supplier may suspend provision of the SaaS or suspend the Customer's right to use the Licensed Software until the Customer makes payment in full of all outstanding amounts.
- 6.4 The Relevant Pricing may be changed by the Supplier on the Supplier giving at least six weeks' written notice (by email) to the Customer of the new charges that will apply except that where a Fixed Term applies, the new pricing will not apply until expiration of the current Fixed Term.

7 Term

- 7.1 The Agreement commences when specified in clause 3.2 in the case of SaaS and when specified in clause 4.3 in the case of Licensed Software and:
- (a) where there is no Fixed Term, will continue until terminated under clause 7.2 or clause 12;
 - (b) where there is a Fixed Term, will continue for the Fixed Term unless terminated under clause 7.3 or clause 12.
- 7.2 In addition to the parties' rights of early termination under the Agreement or otherwise at law, where there is no Fixed Term the Agreement may be terminated by the Customer at any time:
- (a) on written notice to the Supplier, or where the purchase was made from an Authorized Partner on written notice to that Authorized Partner; or
 - (b) through the termination processes at the Purchase Location,
- with the termination taking effect at the end of the month in which the Supplier or Authorized Partner (as applicable) confirms receipt of the Customer's termination request.
- 7.3 In addition to the parties' rights of early termination under the Agreement or otherwise at law, where a Fixed Term applies (including where the Customer selects a Fixed Term at the Purchase Location as a Selected Option (where available)), the Agreement will continue until expiration of the Fixed Term. On expiration of the Fixed Term the Agreement will, subject to

clause 6.4, automatically continue for further periods each of the duration of the Fixed Term (or such shorter period as may apply following the initial Fixed Term) on the same terms and conditions (unless updated as provided for under clause 1.1(b)) unless at least one month prior to the expiration of the current Fixed Term one party notifies the other party in writing that the Agreement is to terminate on expiry of the current Fixed Term.

8 Personal Data and Data Protection

- 8.1 The Customer consents to the Processing of Personal Data by the Supplier for the purposes of this Agreement. Before providing Personal Data to the Supplier, the Customer will obtain all required consents from third parties (including Customer's contacts, partners, distributors, administrators, and employees) under applicable Data Protection Laws.
- 8.2 To the extent permitted by applicable law, Personal Data collected by the Supplier under this Agreement may be transferred, stored and processed in the State(s) and/or country (or countries) in which the Supplier maintains facilities or any other country in which the Supplier's contractors or service providers (including third party vendors) maintain facilities.
- 8.3 In the event of any Personal Data Breach, the Supplier will comply with its obligations, including notification obligations, (if any), under applicable Data Protection Laws.

9 Intellectual Property

9.1 All Intellectual Property in:

- (a) the SaaS or Licensed Software (as applicable); and
- (b) the software, processes, methodology and know-how used by the Supplier in its performance of the Agreement;

is the property of the Supplier (or its licensors) and nothing in the Agreement operates to change that ownership.

9.2 The Customer must not, nor may the Customer permit any other person to do any of the following, or attempt to do so:

- (a) copy, alter, modify, reverse assemble, reverse compile, reverse engineer or enhance the SaaS Systems or the Licensed Software; or
- (b) permit or enable users other than Permitted Users to access or use the SaaS or the Licensed Software; or
- (c) provide the SaaS or Licensed Software (as applicable) to any users through operation of a bureau or like service; or
- (d) resell, rent, lease, transfer, sublicense or otherwise transfer rights to use the SaaS or the Licensed Software; or

- (e) use the SaaS in any way that could damage or interfere with the SaaS Systems in any way;
- (f) use the SaaS or Licensed Software (as applicable) otherwise than in the manner in which the SaaS or Licensed Software (as applicable) is designed to be used;
- (g) use the SaaS in any way that could interrupt, damage or otherwise interfere with use of the SaaS by any other customers;
- (h) access or use the SaaS using a bot or any other form of automation;
- (i) access or use the SaaS in such a way as to diminish the speed of service for other customers or their users, whether deliberately or not;
- (j) do any act which would or might invalidate or be inconsistent with the Supplier's Intellectual Property rights.

9.3 The Customer must notify the Supplier of any actual, threatened or suspected infringement of any Intellectual Property right and of any claim by any third party that any use of the SaaS or Licensed Software (as applicable) infringes any rights of any other person, as soon as that infringement or claim comes to the Customer's notice. The Customer must (at the Supplier's expense) do all such things as may reasonably be required by the Supplier to assist the Supplier in pursuing or defending any proceedings in relation to any such infringement or claim.

9.4 The Customer indemnifies the Supplier against any loss, costs, expenses, demands or liability whether direct, indirect or otherwise, and whether arising in contract, tort (including negligence), equity or otherwise, arising out of a claim by a third party alleging infringement of that third party's Intellectual Property rights if such claim arises from infringement, suspected infringement or alleged infringement due to:

- (a) use of the SaaS or Licensed Software (as applicable) in a manner or for a purpose or in combination with any other SaaS or Licensed Software (as applicable) or product not reasonably contemplated or authorized by the Supplier; or
- (b) a breach by the Customer of clause 9.2.

10 Confidential Information

10.1 The parties recognise and acknowledge the confidential nature of the Confidential Information.

10.2 Neither party may use or disclose any Confidential Information other than:

- (a) to its employees, directors or contractors to the extent necessary in the performance of the Agreement; or
- (b) with the express prior written consent of the other party; or

(c) to its professional advisers.

11 Warranties

11.1 Each party warrants to the other that it has authority to enter into and perform and the ability to perform its obligations under the Agreement.

11.2 Where there is a published Functionality Description for the Licensed Software, the Supplier warrants, for the duration of the Warranty Period, that the Licensed Software will meet the Functionality Description. If the Customer notifies the Supplier in writing within the Warranty Period of a breach of the warranty in this clause 11.2 (identifying the specific non-conformity) ('Warranty Claim'), the Supplier will, on receipt of any such notification investigate the issue and, if it accepts the Warranty Claim, remedy the non-conformity notified in that Warranty Claim at no charge to the Customer. To the extent permitted by applicable laws, the remedy in this clause 11.2 is the Customer's sole and exclusive remedy in respect of any Warranty Claim.

11.3 The warranty in clause 11.2 does not apply in the event of:

- (a) use of the Licensed Software otherwise than as anticipated by the Supplier or for a purpose for which it was not designed;
- (b) modification (or attempted modification) of the Licensed Software by the Customer or any unauthorised third party;
- (c) use of the Licensed Software on equipment and/or software other than the Recommended Infrastructure; or
- (d) use of the Licensed Software otherwise than in accordance with the license granted under clause 4.1 and the limitations in clause 4.2.

11.4 With the exception of the warranties given under clauses 11.1 and 11.2, all warranties, terms and conditions (including without limitation, warranties and conditions as to fitness for purpose and merchantability), whether express or implied by statute, common law or otherwise are excluded to the extent permitted by law.

11.5 Any warranties made to the Customer under the Agreement extend solely to the Customer.

12 Termination

12.1 The Supplier or the Customer may terminate the Agreement immediately on written notice to the other party if the other party:

- (a) breaches any of its obligations under the Agreement and fails to remedy the breach within 20 days of receiving notice requiring the breach to be remedied; or

- (b) ceases business or becomes insolvent or goes into liquidation or has a receiver or statutory manager appointed over its assets or ceases to carry on business or makes any arrangement with its creditors.

12.2 On termination of the Agreement:

- (a) all amounts due to the Supplier or relevant Authorized Partner will become immediately due and payable;
- (b) the Supplier will cease to provide the SaaS or Licensed Software (as applicable) to the Customer, and the Customer will cease to have any entitlement to use the SaaS or Licensed Software (as applicable);
- (c) the provisions of the Agreement that are by their nature intended to survive termination will remain in full force.

13 Liability

13.1 This limitation does not apply to claims by the Customer for bodily injury or damage to real property or tangible personal property where the Supplier is legally liable for that injury or damage.

13.2 The Supplier's liability under this Agreement is limited to direct loss only, to the amount paid by the Customer in the 12 month period preceding the event giving rise to the claim.

13.3 In no event is the Supplier liable for any indirect loss or for any loss of profits, lost savings, lost revenue, loss of data, business interruption, incidental or special damages, or for any consequential loss.

14 Dispute resolution

14.1 In the event of any dispute arising between the parties in relation to the Agreement, no party may commence any proceedings relating to the dispute (except where the party seeks urgent interlocutory relief) unless that party has complied with the procedures in this clause 14.

14.2 The party initiating the dispute ("the first party") must provide written notice of the dispute to the other party ("the other party") and nominate in that notice the first party's representative for the negotiations. The other party must within fourteen days of receipt of the notice, give written notice to the first party naming its representative for the negotiations ("Other Party's Notice"). Each nominated representative will have authority to settle or resolve the dispute. The parties will co-operate with each other and endeavour to resolve the dispute through discussion and negotiation.

14.3 If the dispute is not resolved within one month following the date of the Other Party's Notice (or such longer period agreed by the parties in writing), either party may utilize any other legal remedies available to it in seeking to resolve the dispute.

15 Consumer guarantees

15.1 The Customer acknowledges that where it is acquiring the SaaS or Licensed Software (as applicable) for the purposes of a business, to the extent permitted by the relevant legislation, any statutory consumer guarantees or legislation that are intended to apply to non-business consumers only will not apply.

16 Force majeure

16.1 The Supplier may suspend its obligations to perform under the Agreement if it is unable to perform as a direct result of a Force Majeure Event. Any such suspension of performance must be limited to the period during which the Force Majeure Event continues.

16.2 Where the Supplier's obligations have been suspended under clause 16.1 for a period of 90 days or more, the Customer may immediately terminate the Agreement by giving notice in writing to the Supplier.

17 General

17.1 Entire agreement: The Agreement constitutes the complete and exclusive statement of the agreement between the parties, superseding all proposals or prior agreements, oral or written, and all other communications between the parties relating to the subject matter of the Agreement.

17.2 Waiver: No exercise or failure to exercise or delay in exercising any right or remedy by a party will constitute a waiver by that party of that or any other right or remedy available to it.

17.3 Partial invalidity: If any provision of the Agreement or its application to any party or circumstance is or becomes invalid or unenforceable to any extent, the remainder of the Agreement and its application will not be affected and will remain enforceable to the greatest extent permitted by law.

17.4 Independent contractor: The Supplier is an independent contractor to the Customer and is in all respects independent of the Customer. Nothing in the Agreement constitutes either party a partner, agent, employee or joint venture of the other.

17.5 Suspension: The Supplier may suspend performance of its obligations under the Agreement for so long as it is unable to perform for reasons outside of its control.

17.6 Assignment: The Customer is not permitted to assign its rights under the Agreement.

18 Notices

18.1 Notices from the Supplier to the Customer under the Agreement will be sent to the Customer at the Customer's contact details specified in the Customer Information. The Customer may notify the Supplier of a change to the contact details specified in the Customer Information, on seven days' notice in writing to the Supplier. Notices from the Customer to the Supplier

under the Agreement must be sent to the Supplier at the Supplier's relevant office, details included on the Supplier's website.

18.2 Notices sent by email will be deemed received on sending, provided that the sender does not receive an automatic delivery failure notification. Notices sent by post will be deemed received:

- (a) on the third day following posting if sent and received locally (not internationally); and
- (b) on the tenth day following posting if posted internationally.

19 **Governing law and jurisdiction:**

19.1 The Agreement is governed by the laws of Ontario, Canada. The parties hereby submit to the non-exclusive jurisdiction of the courts of Ontario, Canada.

20 **Definitions: In these terms and conditions:**

"Agreement" has the meaning given to that term in clause 1.2 above;

"Authorized Partner" means a third party that has been authorized by the Supplier to sell the SaaS and/or Licensed Software;

"Confidential Information" means any proprietary information, know-how and data disclosed or made available by one party to the other party but does not include any information which:

- (a) is in the public domain without any breach of the Agreement;
- (b) on receipt by the other party is already known by that party;
- (c) is at any time after the date of receipt by the other party, received in good faith by that party from a third party;
- (d) required by law to be disclosed by the other party;

"Customer" means the customer named in the Customer Information;

"Customer Information" means the customer name, email address and any other contact information submitted by or on behalf of a customer:

- (a) to the Supplier or Authorized Partner in the course of agreeing to purchase (or agreeing to a Trial) of the SaaS or Licensed Product;
- (b) at a Purchase Location in the course of agreeing to purchase (or agreeing to a Trial) the SaaS or Licensed Product;

“Customer’s Integrated Services and Products” means services or products (including third party services or products) which have been integrated (in any way) by or for the Customer with the SaaS or Licensed Software, regardless of who has undertaken that integration work or how it has been undertaken;

“Data” means the Customer's data (including Personal Data if applicable) that is entered by the Customer and processed in the course of provision of the SaaS;

“Data Protection Laws” means any and all laws relating to Personal Data (including data security, protection, privacy or the processing of Personal Data), and includes any statutory modification or re-enactment of such laws for the time being in force;

“Exception Factors” means factors the existence of which mean the Supplier cannot ensure availability of the SaaS, including without limitation the factors described in clause 3.4;

“Fixed Term” (if any) means:

- (a) the fixed term for supply of the SaaS, or the license term for Licensed Software, agreed in writing between the Supplier or relevant Authorized Partner and the Customer; or
- (b) the fixed term selected by the Customer in the Selected Options;

“Force Majeure Event” means any war, riot, third party strike, natural disaster or other circumstance of a similar nature that is outside of the control of the affected party;

“Functionality Description” (if any is published) means the description of the functionality of the Licensed Software, as published by the Supplier, which is available from the Supplier on request;

“Intellectual Property” includes all copyright, trademarks, designs, patents, domain names, concepts, know-how, trade secrets, logos and all other similar property and rights whether registered or unregistered;

“Licensed Software” means the software (executable version only) supplied by the Supplier and selected by the Customer by agreement with the Supplier or an Authorized Partner or at the Purchase Location, as updated from time to time by the Supplier;

“Permitted Users” means:

- (c) employees, directors or contractors of the Customer; and
- (d) where the Selected Options include options for selecting the number of permitted users, not more than the number of employees, directors or contractors selected,

and excludes bots or access by other non-manual means;

“Personal Data” means any information relating to an identified or identifiable natural person, or any equivalent definition in relevant data protection or privacy laws in force at the relevant time;

“Personal Data Breach” means unauthorised access to, unauthorised disclosure of, or loss of, Personal Data (being Personal Data that is Processed by the Supplier under this Agreement), or any equivalent definition in relevant data protection or privacy laws;

“Planned Maintenance” means maintenance on all or any part of the SaaS Systems and if applicable to the Agreement will be undertaken at times notified to the Customer in writing;

“Processing” means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaption or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction, and ‘Process’ and ‘Processed’ has/have a corresponding meaning, or any equivalent definition in relevant data protection or privacy laws;

“Purchase Location” means any internet site from which the SaaS or Licensed Software is available for purchase;

“Recommended Infrastructure” (if any) means the minimum requirements for the infrastructure, as recommended by the Supplier, for the Licensed Software be installed on, as notified by the Supplier, Authorized Partner or at the Purchase Location at the time of the purchase of the Licensed Software;

“Relevant Pricing” means the pricing for the SaaS or Licensed Product (as applicable) that is notified in writing to the Customer by the Supplier or by the relevant Authorized Partner prior to the purchase by the Customer or made available at the Purchase Location, and where Selected Options apply, means or includes (as applicable) the pricing for the Selected Options;

“SaaS” means the software-as-a-service supplied by the Supplier and selected by the Customer by agreement with the Supplier or an Authorized Partner or at the Purchase Location, as modified from time to time by the Supplier;

“SaaS Systems” means, as the context permits, the software used by the Supplier to provide the SaaS and/or the equipment on which that software is installed (whether this is the Supplier’s software or equipment or is third party software or equipment);

“Security Breach” means access or disclosure of the Data to or by anyone other than the Permitted Users where the access or disclosure occurs through bypassing the security mechanisms of the SaaS Systems;

“Selected Options” means, if there are options to choose from for provision of the SaaS or Licensed Software (as applicable), the options for provision of the SaaS or Licensed Software selected by the Customer by agreement with the Supplier, an Authorized Partner or at the

Purchase Location (the options may include for example, for SaaS the maximum number of users or the term for which the SaaS is to be provided or for Licensed Software the type of license);

“Trial” (where available) means use of the SaaS or Licensed Software, free of charge;

“Trial Period” (where applicable) means the trial period notified to the Customer in writing by the Supplier, Authorized Partner or at the Purchase Location, prior to commencement of the Trial;

“Trial SaaS or Trial Licensed Software” (if any) means the version of the SaaS or Licensed Software made available by the Supplier at its discretion for a Trial;

“Warranty Period” for the Licensed Software (where applicable) means the period of 30 days from the date the Licensed Software was downloaded by or for the Customer or otherwise delivered or made available to or for the Customer, whichever occurs first.

20.2 Interpretation: In these terms and conditions:

- (a) reference to the plural includes reference to the singular, and vice versa;
- (b) headings inserted for convenience of reference only and do not affect the interpretation of the Agreement.