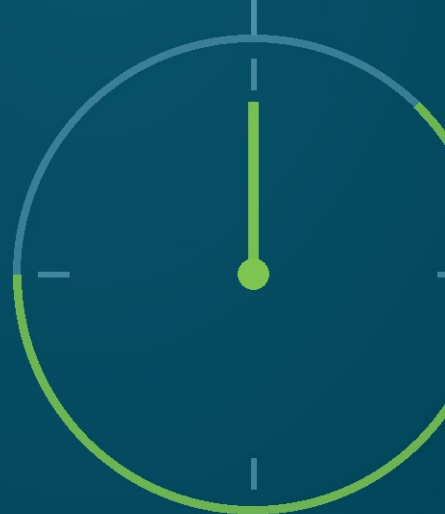




HFX LIMITED · ORDER AGREEMENT · 2026

Standard Terms & Conditions.

These terms and conditions set out the terms which govern the Order Document between HFX Limited and the Customer who wishes to procure Product, Services and/or Third Party Products from the Company.

HFX Limited · 11 Buckingham Street, London, England, WC2N 6DF
Registered company number 08137794

Contents

01	Definitions and Interpretation	3	15	Data Protection / UK GDPR	22
02	Agreement Overview	7	16	Personnel	23
03	The Company's Obligations	8	17	Compliance with Contract Documents	23
04	The Customer's Obligations	8	18	Force Majeure	24
05	Warranty	9	19	Anti-Bribery and Anti-Slavery	24
06	Limitation of Liability	10	20	Waiver	24
07	Charges	11	21	Severability	25
08	Term and Termination	13	22	Assignment and Third Party Rights	25
09	Intellectual Property Rights	14	23	Entire Agreement	25
10	Licence Restrictions	15	24	General, Notices and Communications	25
11	Product Maintenance	16	25	Law and Dispute Resolution	26
12	Project Implementation	19	A	Annex A — Processing Activities	27
13	Change Control	21	B	Annex B — Service Level Agreement	28
14	Confidentiality	21			

These terms and conditions set out the terms which govern the Order Document between;

- 1) HFX LIMITED (the "Company") whose registered address is at 11 Buckingham Street, London, England, WC2N 6DF, registered company number 08137794; and
- 2) The "Customer" referred to in the Order Document who wishes to procure Product, Services and/or Third Party Products from the Company.

WHEREAS:

- (a) the Company is a leading provider of workforce management software and Services; and
- (b) the Customer desires to procure certain Product, Services and/or Third Party Products from the Company as detailed in the Order Document; and
- (c) the parties intend that their respective rights and obligations in relation to the supply or procurement of such Product, Hardware and/or Services will be governed by the terms and conditions of the relevant Agreement (as defined in clause 1.2 below)

These terms and conditions set out the terms which govern the Order Document between;

- 1) HFX LIMITED (the "Company") whose registered address is at 11 Buckingham Street, London, England, WC2N 6DF, registered company number 08137794; and
- 2) The "Customer" referred to in the Order Document who wishes to procure Product, Services and/or Third Party Products from the Company.

WHEREAS:

- (a) the Company is a leading provider of workforce management software and Services; and
- (b) the Customer desires to procure certain Product, Services and/or Third Party Products from the Company as detailed in the Order Document; and
- (c) the parties intend that their respective rights and obligations in relation to the supply or procurement of such Product, Hardware and/or Services will be governed by the terms and conditions of the relevant Agreement (as defined in clause 1.2 below)

01 Definitions and Interpretation

1.1 This clause 1 sets out definitions and rules of interpretation for the Agreement.

1.2 Unless the context otherwise requires, the following expressions shall have the following meanings:

"Affiliate" means, in relation to an entity, any entity controlling, controlled by, or under common control with that entity, where "control" (in its various forms) means having the right to direct the management and affairs of an entity, whether through ownership of voting securities, by contract, or otherwise.

"Agreement" means the entire agreement between the parties, comprising of:

- (a) an Order Document including payment schedule/terms.
- (b) these terms and conditions;
- (c) the Service Level Agreement (Refer to Annex B).

"Agreement Date" means the date specified on the relevant Order Document;

"Agreement Term" means the period commencing on the Agreement Date for the Agreement Term as set out in the Order Document, unless terminated earlier in accordance with the Agreement;

"Authorised Representative" means the officer of a party specified in the Order Document or such other officer as may be notified by a party to the other in writing from time to time or (if such post shall cease to exist or be vacant) the Managing Director or Chief Operating Officer of each party;

"Authorised User" means the employees and independent contractors of the Customer who are entitled to use the Product and/or Third Party Product(s) limited to the number of licences purchased and strictly in accordance with the Agreement on Customer's behalf;

"Charges" means the charges payable in respect of particular Product and Services, as more particularly set out in an Order Document;

"Company" means the supplier entity set out in the Recitals, where applicable, references to Company shall mean its Affiliates.

"Confidential Information" means all information shared by one party with the other including, but not limited to, its business, finances, customers, services, processes and products communicated or received in any way whatsoever including, but not limited to, orally, in writing, electronically or obtained through observation. All such information which is designated as confidential or which is otherwise clearly confidential in nature constitutes "Confidential Information";

"Country of Use" means the country or countries specified in the relevant Order Document;

"Current Sub-Release" means the most recent mandatory Sub-Release, or a subsequent nonmandatory Sub-Release.

"Customer Host System" means a Host System provided or operated by the Customer, a Listed Affiliate or a third party supplier of either of the foregoing;

"Customer Data" means the time & attendance, personnel and associated data of the Customer and Associated Companies which may comprise Customer Personal Data which is defined within and processed by the Company in accordance with Clause 15 (Data Protection/UKGDPR);

"Deliverable(s)" means any deliverable or output to be provided to Customer in connection with the Professional Services as set out in the Order Document, excluding any Customer Data or other materials contained in the Deliverables and standard Products and Product Documentation provided by Company.

"Employee" means any person in respect of whom employment records are kept by the Customer or a Listed Affiliate using the Product, including past or current employees, pensioners whether deferred or in receipt of payment, volunteers, or any other non-employed office holders;

"Expenses" means the Company's reasonable travelling, accommodation (where necessary) and subsistence expenses, including the Company's travelling time, incurred in providing any Services at the Customer's Site.

"Fix" means an amendment to the Product which is not classified as a Sub-Release;

"Good Industry Practice" means the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced contractor engaged (in the United Kingdom) in activities of a similar scope and complexity to those that are subject to the relevant Agreement and under the same or similar circumstances, where such contractor is seeking to comply with its contractual obligations and all applicable law and regulatory requirements;

"Hardware" means the hardware (or any part of it) which constitutes Third Party Product(s) that may be provided by Company to Customer if set out in the Order Document.

"Hardware Manuals" means any then current user manual, handbook or other documentation for the Hardware made available by Company (or its third party Hardware vendor) for Customer's use.

"Hardware Support Services" means the support and maintenance services as set out in Clause 11.7 of this Agreement for the Hardware if detailed in the Order Document, which are to be provided by Company to Customer

and which shall form part of the Support Services, if applicable and set out in the Order Document. Hardware Support Services may be dependent upon Third Party Services.

"Host System" means the computer system (including any hardware and software comprised within it) on which Software is installed;

"Host System Requirements" means, in respect of a Host System, the recommendations and minimum requirements for such system set out in the relevant Order Document (as such may be updated from time to time by the Company);

"Implementation Project" has the meaning set out in clause 12.1;

"Implementation Services" means the Services detailed as such in the relevant Order Document in connection with the installation and implementation of the Product and/or Hardware;

"Initial Charge" means the charge so designated in an Order Document;

"Installation Address" means the premises specified in an Order Document where Hardware is to be installed and operated if it is not to be installed and operated on the Company's premises;

"Intellectual Property Rights" means copyrights, rights in databases, patents, trademarks, business or trade names, domain names, registered designs, utility models, design rights, inventions, trade secrets, Confidential Information, know-how, get-up, and all other intellectual property and neighbouring rights and rights of a similar or corresponding character anywhere in the world (whether or not the same are registered or capable of registration) and all applications and rights to apply for or for the protection of any of the foregoing;

"Interfaces" means, the interfaces of the Customer which operate between the Product and/or Third Party Product(s), as may be detailed in the relevant Order Document;

"Legislative Change" means an addition to or change in Government legislation (including Acts of Parliament and Statutory Instruments) in the United Kingdom and Ireland, but excluding (a) any additions or changes to any other form of regulation, any guidance or any scheme rules, and (b) additions or changes falling within clause 11.4;

"Listed Affiliate" means a Customer Affiliate listed in the Order Document as a Customer entity authorised to use one or more of the Products listed therein during the applicable Agreement Term.

"Losses" means any and all costs, expenses, liability, injuries, losses, damages, claims, demands, fees, fines, taxes, penalties and reasonable legal costs and judgments notwithstanding that each party is under a duty to mitigate its losses;

"Malfunction" means any material failure of the Product and/or Third Party Product(s) to in accordance with the Product Documentation.

"Normal Working Hours" means between 09.00 and 17.00 on a Working Day (excluding bank holidays) in relation to Support Services and Professional Services.

"Order Document" means the Order Document signed by the Customer setting out the details of, and terms applicable to the provision and receipt of, particular Product, Services and/or Third Party Products;

"Product" means the Company software, with the Sub-Release number and incorporated modules, which may incorporate Third Party Software all as specified in the Order Document as being licensed to Customer;

"Product Documentation" means, in relation to the Product, the standard product specification, operating manuals, user instructions and User Guides as may be published by the Company from time to time;

"Professional Services" means the services detailed as such in an Order Document, including the Implementation Services, consultancy services and training services;

"Professional Services Charges" means the charges so designated in the relevant Order Document;

"Project Manager" means a Representative of a party designated to act as the project manager in respect of particular Professional Services;

"Purpose of Use" means the use for which the Company has licensed the Product and Product Documentation to the Customer as set out in the relevant Order Document;

"Quarterly Managed Services Charge" means any charge so designated in an Order Document (as such may be amended from time to time in accordance with the Agreement).

"Representative" means an officer, employee, sub-contractor or agent of the Company or the Customer or (in the case of the Company) any other person working under the direction of the Company;

"Service Level Agreement" means the document titled as such and referred to in an Order Document which sets out additional detail regarding the respective obligations of the parties in relation to the Product and/or Services;

"Services" means any Support Services and/or Professional Services provided by the Company to the Customer under the Agreement;

"Site" means the Installation Address and any other premises of the Customer at which Services are to be provided;

"Sub-Release" means, in relation to the Product, a partial re-issue of the Product by the Company from time to time in order to effect upgrades and enhancements or corrections to that Product;

"Supervisory Authority" shall mean the UK Information Commissioners Office.

"Support Services" means the services detailed as such in an Order Document (including any Service Level Agreement referred to in it), including hosting services and where applicable Hardware Support Services as the case may be, but excluding Professional Services;

"Third Party Product(s)" means Hardware, Third Party Software and/or Third Party Services that may be mutually agreed and procured by the Company at the direction and on behalf of the Customer on a pass-through basis, subject to the provisions of Clause 2.8, supplied in addition to any Products and/or Services;.

"Third Party Services" means third party services that may be procured by the Company on behalf of the Customer on a pass-through basis in accordance with Clause 2.8;

"Third Party Software" means any opensource or other third party software relating to or contained within a Product; or , Deliverables which are licensed to the Company by a third party vendor and subject to Third Party Terms.

"Third Party Terms" means the terms and conditions (including any notices or end user license agreement) which governs use of Third Party Product(s), Third Party Services or Third Party Software;

"Transfer Regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any successor legislation;

"Use" means subject to and in consideration of Customer's and their respective Authorised Users continuing compliance with the terms and conditions of the Agreement and payment of the applicable Charges, the Company grants to the Customer during the Agreement Term a personal, non-exclusive, non-transferable, non-sublicensable and revocable: i) right for the Customer to access and Use, solely by and through the Authorised Users, the Product (in object code only) listed in the Order Document (including any maintenance release provided to the Customer pursuant to the provision of Support Services) and the relevant Product Documentation within the Country of Use; ii) licence for the Customer to, solely by and through the Authorised Users, access, view and use the Content, solely for the Purpose of Use within the Country of Use;

lii) licence to use the Deliverables for Customer's internal business purposes to the extent required for the proper enjoyment of the Professional Services, where applicable in an Order Document. Where the Deliverable includes configuration or modifications to Company's standard Products, permission to use the Deliverable is granted on the same basis as that which applies to the relevant Product; iii) (a) the loading, copying, transmitting or storing of any Product or Product Documentation onto a Host System; (b) the processing or running of any Product or Product Documentation on a Host System; and (c) the reading and possession of Product Documentation in conjunction with the uses set out in (a) and (b) above; subject to the terms of the Agreement;

"User Guides" means a summary of the features and functionality of the Product and/or particular releases of it, as such is made available and updated from time to time through the Company's customer service cloud;

"Working Day" means any day other than Saturdays, Sundays and English bank and other public holidays;

- 1.3 A reference to a statutory provision includes a reference to that provision as amended, consolidated or re-enacted (whether before or after the date of the Agreement).
- 1.4 Words importing one gender include all genders, words importing the singular include the plural, and (in each case) vice versa.
- 1.5 References to a "person" will be construed so as to include bodies corporate, unincorporated associations and partnerships.
- 1.6 If there is a conflict between any provisions in the Agreement, the following order of precedence shall apply: i) the Order Document; ii) these terms and conditions; iii) the Service Level Agreement; and iv) customer Purchase Order. For the avoidance of doubt a Customer purchase order is issued for invoice purposes only and no terms and conditions that may be stipulated on them shall apply.
- 1.7 Any headings are for ease of reference only and shall not affect the construction of any provisions of these terms and conditions .
- 1.8 The words "include", "includes", "including" and "included" will be construed without limitation.
- 1.9 References to a "party" are to the Customer or Company (as applicable), and references to the "parties" are to both of them.

02 Agreement Overview

- 2.1 Acceptance of the Order Document shall create a binding contract for the provision of the Product and/or Services as outlined within such Order Document for duration of the Agreement Term. The Order Document shall form part of the Agreement and thus shall incorporate these terms and conditions.
- 2.2 In the absence of an Order Document, these terms and conditions create no obligation or right on behalf of either party.
- 2.3 The parties understand and expressly declare that neither party is agent for the other, nor does either party has any authority to make any contract, whether expressly or by implication, in the name of or otherwise binding the other party, without that party's prior written consent for express purposes connected with the performance of the Agreement.
- 2.4 The Customer acknowledges and accepts that the relevant Product and/or Services have not been developed to meet the Customer's individual requirements and it is therefore the responsibility of the Customer to ensure that the Product as described in the Product Documentation and the Order Document meet its requirements.
- 2.5 The Company shall supply the Product and/or Services based upon an assessment made in good faith of the Customer's requirements as expressed in the information supplied by the Customer. The Company shall not be liable for any failure to provide or any defect in the relevant Product and/or Services to the extent that such failure or defect is caused by an omission, error, inaccuracy or ambiguity in the expression of the Customer's requirements or in the information provided by the Customer.
- 2.6 All Support Services or Professional Services are to be performed within Normal Working Hours.
- 2.7 The Company shall be held harmless and not liable for any delays or failures by the Customer or its third party providers of Interfaces.

- 2.8** The Customer acknowledges and agrees that it shall satisfy itself that the Third Party Product(s) procured on a pass-through basis, meets its requirements and that the Company is acting in a pass through of charges capacity only as it is provided by a third party. Warranties, remedies and other contractual commitments related to the performance of the Third Party Product(s) shall be limited to those provided by the third party, unless otherwise set out herein. Customer agrees to conform with the Third Party Terms as may be notified from time to time. To the extent that the Customer incurs liability arising from the Third Party Product(s) the Company's liability to the Customer arising from such Third Party Product(s) shall be limited to an appropriate pro-rata share (taking into account other customers of Company may also incur liability arising from the applicable Third Party Product(s)) of whatever remedies and/or recovery Company actually receives from the third party. It is acknowledged and agreed by the Customer that the contractual arrangements between the third party and Company may not be specific to the Customer and may not apply for the benefit of any third parties such as the Customer. The Company may deny access to the Product to any of the Customer's third party vendor's which Company reasonably determines poses a security or confidentiality risk to Company's, or its other customers', systems, data or Intellectual Property Rights.
- 2.9** Both parties agree to keep the commercial details of the Agreement confidential save for any financial, regulatory or statutory compliance, but may publish details of its relationship to the other party and reasonable information as to its use, purpose and benefit derived from the Product and/or Service provided or procured (as the case may be).

03 The Company's Obligations

- 3.1** In consideration of the payment by the Customer of the Charges in accordance with the terms of the Agreement, the Company:
- (a) grants to the Customer a license to Use the Product, Services and/or Product Documentation thereof in accordance with Clause 10;
 - (b) shall provide the relevant Support Services throughout the Term; and
 - (c) upon request shall provide the Customer with a copy of the Company's ISO27001 certificate.

04 The Customer's Obligations

- 4.1** The Customer shall not, and shall ensure that its Associated Companies shall not (whether by act or omission):
- (a) interfere with the provision of the Services;
 - (b) knowingly or recklessly engage in spamming, mail bombing, spoofing or any other fraudulent, illegal or unauthorised attack or use of any Host System;
 - (c) knowingly or recklessly introduce into or transmit through the Product or any Host System any virus, worm, trap door, back door, timer, clock, counter or other limiting routine, instruction or design; or
 - (d) store, distribute or transmit through any Host System any material which is unlawful, harmful, threatening, defamatory, obscene, harassing or racially or ethnically offensive, facilitates violence, discrimination based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activities.
 - (e) Knowingly or recklessly damage or otherwise cause harm to any devices provided by the Company.

- 4.2** The Customer acknowledges that the provision of the Services under the Agreement is dependent on the co-operation, and timely provision of both information and assistance of the Customer. Failure of the Customer to fulfil any such obligations in whole or in part or, where appropriate, by the date specified in the Agreement for such fulfilment, and where such Customer failure causes the Company not to fulfil its obligations under the Agreement after notification by the Company:
- (a) the Company shall not be liable for any such failure; and
 - (b) any date or time period set out in the Agreement for the fulfilment by the Company of any of its obligations shall be extended by a period of time equal to any delay caused by such Customer failure.
- 4.3** The Customer has, and will retain, sole responsibility for: a) all Customer Data, including its content, use, accuracy, quality and legality; b) all information, instructions, and materials provided by or on behalf of Customer, relevant Affiliate or any Authorised User in connection with the Products; c) Customer systems, including Customer's Host System and any Interfaces; d) the security and use of Customer's and its Authorised Users' access credentials; and e) all access to and use of the Product and/or Services directly or indirectly by or through Customer's Host Systems or its Authorised Users' access credentials, with or without Customer's knowledge or consent, including all results obtained from, and all conclusions, decisions, and actions based on, such access or use.

05 Warranty

5.1 Each Party represents to the other Party that:

- (a) it has all necessary power and authority to enter into the Agreement; and
- (b) the Agreement, when executed and delivered, will constitute a valid and binding obligation of such Party and will be enforceable against such Party in accordance with its terms. 5.2 Company warrants that the Product (excluding any Sub-Releases made available to Customer from time to time, which shall not benefit from the warranty set forth in this Section 5.2, but which shall be supported in accordance with any applicable Support Services that Company has agreed to provide to Customer pursuant to an Order Document) will perform in accordance with their respective Product Documentation in all material respects for thirty (30) days following delivery. The warranty shall not apply:

- 5.2.1** if the Product is not used in accordance with the Product Documentation;
- 5.2.2** if the defect is caused by: a) a modification (other than a modification provided by Company); b) Customer; or c) third-party software;
- 5.2.3** to any Customer unlicensed activities; or
- 5.2.4** if the defect is caused by a failure by Customer to install and run a Sub-Release in accordance with the Agreement; Provided Customer notifies Company in writing with a specific description of the Product's non-conformance within the warranty period referenced above and Company validates the existence of such non-conformance, Company's sole obligation and Customer's exclusive remedy will be for Company to use reasonable efforts to correct the failure of the affected Product to operate as warranted, at no charge to Customer. If Company is unable to cure a breach of this warranty after using reasonable commercial efforts, Customer's exclusive remedies will be to terminate its licence for the affected Product in accordance with Section 8.2(a) below, and receive a refund of any unused prepaid fees received for such Product less an amount that reflects Customer's use and benefit derived from the Product prior to the date of such termination assuming a useful life of five (5) years) for SaaS Products. In respect of SaaS Products, the Customer shall be entitled to a refund of any unused pre-paid monthly fees, calculated on a pro rata basis from the annual fee paid under the Agreement, effective from the termination date.

- 5.3** Company warrants that it will perform the Services in a professional and workmanlike manner consistent with generally accepted industry practices.
- 5.4** Company warrants that, in respect of any Professional Services provided by Company under the Agreement, the relevant Deliverables will conform in all material respects with the descriptions set forth in the Order Document. Provided Customer notifies Company in writing with a specific description of any non-conformity of the Deliverables in breach of the warranty set out in this Section 5.4 within thirty (30) days of delivery of the applicable Deliverables, Company's sole obligation and Customer's exclusive remedy will be for Company to re-perform such deficient Professional Services in order to provide conforming Deliverables, and if Company then fails again to provide the Deliverables as warranted, Customer, as its exclusive remedy, shall be entitled to recover the fees paid to Company for such non-conforming Deliverables acting reasonably and such nonconformance must be demonstrable.
- 5.5** Customer assumes all risks associated with its selection and use of the Product, Product Documentation and Deliverables to meet its needs. Customer acknowledges that it is solely responsible for the results obtained from use of the Product, Product Documentation or Deliverables, including the completeness, accuracy, and content of such results, and the conclusions drawn from such use. Company does not represent or warrant that the Product, Product Documentation or Deliverables will meet the requirements or business needs of Customer, that the Products', Product Documentation's and/or Deliverables' will be uninterrupted or error-free, or that all defects will be corrected. Except as expressly provided in the Agreement, to the maximum extent permitted by applicable law, all warranties, representations, conditions or other terms which might have effect between the Parties or be implied or incorporated into the Agreement, whether by statute, common law or otherwise, are hereby excluded, including the implied conditions, warranties or other terms as to satisfactory quality, fitness for particular purpose or the use of reasonable care and skill. The Company excludes all liability and indemnification obligations for any loss, liability, harm or damage caused by third-party software, any third-party hosting providers or by any other providers of third-party services or content.
- 5.6** The Company makes no warranties, express or implied, regarding the quality, performance, or suitability of third-party software under this Agreement.
- 5.7** Customer shall only benefit from any warranties provided by the original supplier of third-party software, if any. Company does not extend any additional warranties beyond those provided by the original supplier.
- 5.8** Customer warrants, represents and undertakes to the Company that:
- 5.8.1** it has all rights and licences necessary for it to grant the licences set forth in the Agreement and to submit, post or display Customer Data on the Product; and
 - 5.8.2** the hosting and display of such Customer Data by Company (or any third party on behalf of Company) shall not infringe the Intellectual Property Rights or any other rights of a third party.

06 Limitation of Liability

- 6.1** Nothing in the Agreement excludes or limits the liability of:
- 6.1.1** either party for; a) death or personal injury caused by that party's negligence; b) breach of the obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; c) any breach of Clause 14 (Confidentiality), except the Company's breach of Clause 15 (Data Protection/UKGDPR) in respect of Customer Data which shall be subject to the limitations of liability set out in Clause 6.4 ii); d) or for fraud or fraudulent misrepresentation; e) Any other liability which may not be excluded by law;
 - 6.1.2** Customer for: a) Customer's obligation to pay any amounts due under the Agreement; b) any breach of: i) Clause 10 (Licence Restrictions); ii) Clause 4.1 (Customer Obligations).

- 6.2** The total aggregate liability of both parties under the Agreement in respect of physical damage caused to the other party's physical property as a result of the other party's negligence shall not exceed £1,000,000 (one million pounds).
- 6.3** Subject to clause 6.1, the Company shall not under any circumstances have any liability for any loss or damage which may be suffered by the Customer (or its Listed Affiliates) whether arising in respect of any breach of the Agreement or any representation or tortious act or omission (including negligence and breach of statutory duty) or otherwise howsoever arising under or in connection with the Agreement, and which falls within any of the following categories:
- (a) indirect or consequential loss or damage (irrespective of whether the Company was aware of the circumstances giving rise to such loss or damage); (b) loss of profits; (c) loss of revenue; (d) loss of anticipated savings; (e) loss of business opportunity; (f) loss or depletion of goodwill and/or similar losses; (g) loss of revenue; (h) loss or corruption of data or information; (i) any special, indirect or consequential loss, costs damages, charges or expenses however arising under the Agreement
- 6.4** Subject always to clause 6.3 and other than the liability referred to in clauses 6.1, 6.2, 6.5 and 6.7, the total aggregate liability of the Company and Customer under or in connection with the Agreement (whether arising in contract, tort including negligence or breaches of statutory duty by the Company or its Representatives, misrepresentation, restitution, under any indemnity or otherwise) during the Agreement Term or thereafter shall not exceed; i an amount equal to 100% (one hundred percent) of the total Charges paid or payable by the Customer under the Agreement for the Product or Services giving rise to the liability in the twelve (12) months immediately preceding the date of the first incident out of which the liability arose; or ii in respect of Clause 6.1.1c) in relation to a Customer Data breach an amount equal to 200% (two hundred percent) of the total Charges paid or payable by the Customer under the Agreement for the Product or Services giving rise to the liability in the twelve (12) months immediately preceding the date of the first incident out of which the liability arose.
- 6.5** Subject to Clause 6.1, 6.2, 6.3, 6.4 and 6.7, either Party's total aggregate liability (in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution, under an indemnity or otherwise), arising under or in connection with Clause 9.3 and 9.5 (Intellectual Property Rights) is limited to five million pounds (£5,000,000) in aggregate.
- 6.6** The Company shall at its own cost maintain in force throughout the Agreement Term, policies of insurance legally required by the laws of England and Wales. 6.7 Subject always to clause 6.3 and other than the liability referred to in clauses 6.1, 6.2, 6.4 and 6.5, the total aggregate liability of the Company under or in connection with any Agreement in relation to any Third Party Product(s), provided or made available under the Agreement (whether arising in contract, tort including negligence or breaches of statutory duty by the Company or its Representatives, under any indemnity or otherwise) shall not exceed a sum equal to:
- (a) the total amount (if any) actually recovered by the Company from the relevant third party provider in respect of the matters giving rise to such liability; divided by:
 - (b) the total number of customers of the Company affected who use the relevant Third Party Product(s).
- 6.8** Each Party is under a duty to mitigate its losses.

07 Charges

- 7.1** The Customer shall pay the Charges in accordance with the terms of the Agreement. The Customer acknowledges and agrees that the Charges are an estimate made in good faith only and that the Company gives no warranty, representation or guarantee that the Product can be installed, implemented and/or maintained within any estimated number of Working Days.

- 7.2** All Charges are separate. Where any element of the Charges is disputed, the Customer shall not be entitled to withhold payment of any undisputed Charges which are not the subject of that dispute. Any dispute or query relating to any invoice must be made by the Customer to the Company in writing within 10 Working Days of the date of such invoice, otherwise the invoice will be treated as being accepted by the Customer. Payments shall not be unreasonably withheld or delayed by the Customer and any disputed charges shall be handled promptly by the Parties within 14 days in accordance with Clause 25 (Law and Dispute Resolution).
- 7.3** All sums set out in the Agreement are net and exclusive of any customs, taxes, duties, tariffs, or other additional sums associated with Expenses, Value Added Tax, withholding tax, import or other successor duties and any bank charges, commissions or deductions, which shall in each case be payable by the Customer in addition to the Charges.
- 7.4** Any increases in costs to the Company in delivering any Third Party Product(s) and/or Third Party Software may be passed on to the Customer by way of an increase in the relevant Charges.
- 7.5** All Charges shall be due and payable by the Customer within 30 days of receipt of the Company's invoice. Time shall be considered of the essence in relation to the Customer's obligation to pay the Charges.
- 7.6** If any sum due from the Customer to the Company is not paid by the Customer by the due date for it and is not subject to a bona fide dispute in accordance with clause 7.2 then the Company may choose (without prejudice to its other rights and remedies) to:
- (a) charge interest on the outstanding sum until payment together with interest at the rate of eight per cent (8%) per annum above Barclays Bank Plc's current base rate from time to time, in which case the Customer shall pay such interest on demand;
 - (b) Charge an admin fee of £100 (ex VAT) for issuing a late payment notice.
 - (c) suspend the provision of any Product, Services, Third Party Product(s) and the rights granted to the Customer to Use any Product, Services, Third Party Product(s) by giving 7 days' notice in writing to the Customer to that effect. In such a circumstance the Company reserves the right to charge a £100 (ex VAT) reactivation fee in addition to any other rights or remedies available under the Agreement.
- 7.7** The Company may, at its sole discretion and with effect from each anniversary of the Agreement Date (at the earliest), increase the then current Charges under the Order Document for Product, Services and/or Third Party Product(s) by; i) a percentage equal to the average percentage increase in the Retail Price Index published by the Office for National Statistics (or its replacement index) during the twelve (12) month period preceding the date of notice of the adjustment ("RPI Rate"); and ii) any third party vendor increases levied beyond the RPI Rate in relation to third party aspects including Third Party Product(s) ("Third Party Rate"; and iii) Company's annual increase of no greater than five percent (5%) ("Company Rate"). In the event that the RPI Rate is zero or negative or the Third Party Rate is zero, then the Company may still apply the Company Rate. Any such increase shall be notified to Customer at least thirty (30) days prior to the date any fee adjustment takes effect.
- 7.8** Where the Services are expressed as training services on the Order Document (whether to be performed at the Customer's Site or remotely), the Customer shall be charged for a minimum of one day of Services received. Any other Services performed on Site shall be charged at a minimum of half a day of Services received.
- 7.9** For the avoidance of doubt, charges associated with the postage and packing are not included in the Order Document unless stated and chargeable in addition.
- 7.10** In no event shall any refund of Charges be due to the Customer for suspension of the Product and/or Services, or termination thereof due to a Customer cause.

08 Term and Termination

- 8.1** The Agreement shall commence on the Agreement Date and shall cease to exist upon the expiry of the Agreement Term;
- 8.2** The Agreement and the rights to use will terminate or may be terminated immediately for cause:
- (a) by either party if the other party commits a material breach of the Agreement which (in the case of a breach capable of being remedied) has not been remedied within 30 Working Days of a written notice from the party not in default requiring the other party to remedy that breach;
 - (b) by the Company if an amount due under that or any other Agreement is overdue and is not paid within 30 Working Days of the Company giving written notice to the Customer setting out details of the amount and stating that it is overdue;
 - (c) by either party if any of the following events (or any event analogous to any of the following, in a jurisdiction other than England and Wales) occurs in respect of the other party:
 - (i) a proposal is made for a voluntary arrangement or for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors;
 - (ii) a shareholders' meeting is convened, or a resolution is passed for its winding up (except for a bona fide reconstruction or amalgamation);
 - (iii) a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditor's meeting is convened pursuant to s.98 Insolvency Act 1986;
 - (iv) a receiver, manager or administrative receiver is appointed over any or all of its undertaking or assets;
 - (v) an administrator is appointed or an application is made for such an appointment or the making of an administration order;
 - (vi) it becomes insolvent within the meaning of s.123 Insolvency Act 1986;
 - (vii) a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
 - (viii) a Force Majeure event in accordance with Clause 18.
- 8.3** Upon termination of the Agreement:
- (a) any licence to Use the Product granted under the Agreement shall terminate;
 - (b) the Company shall fulfil its obligations pursuant to clause 15.3(h);
 - (c) both parties shall fulfil its obligations pursuant to clause 14.7; and (d) the Customer shall, at the Company's option, either:
 - (i) expeditiously return to the Company any Product (and all copies thereof) in the Customer's or a Listed Affiliate's possession or control; or
 - (ii) irretrievably erase the Product from all Customer Host Systems and certify in writing to the Company (in such form as the Company may reasonably require) that the Product has been erased.
 - (d) At the request of the Customer, the Company will provide assistance in the export of the Customer data.

- 8.4** Clauses 2 (Agreement Overview), 6 (Limitation of Liability), 8 (Termination), 9 (Intellectual Property Rights), 15 (Confidentiality), 16 (Data Protection), 17 (Personnel), 21 (Waiver), 22 (Severability), 23 (Assignment and Third Party Rights), 25 (General, Notices and Communications) and 26 (Law and Dispute Resolution), shall all survive the termination of the Agreement and termination (howsoever arising) shall be without prejudice to the rights of the parties accrued up to such date. Any term or condition of the Agreement which expressly or by implication is required for the interpretation of the Agreement or necessary for the full observation and performance by each Party of all rights and obligations arising prior to the date of expiration or termination shall survive the expiration or termination of the Agreement for any reason.

09 Intellectual Property Rights

- 9.1** All Intellectual Property Rights in any Product, Services, Third Party Product(s) and/or Product Documentation belong and shall belong to the Company or its licensors, and the Customer shall have no rights in or to them other than the right to Use them in accordance with the terms of the Agreement.
- 9.2** The Customer hereby grants to the Company, for the Term, a non-exclusive, royalty-free licence to use, operate, copy and modify the Customer's Intellectual Property Rights for the purpose only of performing the Company's obligations under the Agreement.
- 9.3** Subject to clauses 9.4 to 9.8, the Company will indemnify the Customer from and against all Losses sustained or incurred by the Customer as a result of any claim made by a third party (in the United Kingdom) that the Use of the Product, Third Party Product(s) and/or Documentation provided by the Company under the Agreement, or the provision of any Services by the Company under the Agreement, infringes a third party's Intellectual Property Rights (an "IPR Claim").
- 9.4** The indemnity in clause 9.3 shall not apply in respect of an IPR Claim where the Customer's acts or omissions as outlined in this clause 9.4 (a) through to (e) prevent the Company from being able to exercise any of its options outlined in clause 9.7:
- (a)** the IPR Claim is due to the Customer using the Product and/or Product Documentation other than in accordance with the terms of the Agreement;
 - (b)** the Customer is in material breach of the Agreement;
 - (c)** the Customer has failed to notify the Company in writing of the IPR Claim within 15 Working Days of first knowing or being aware of it;
 - (d)** the Customer has made an admission of liability in respect of the IPR Claim without the prior written consent of the Company; or
 - (e)** the Customer has prevented the Company (at the Company's expense) from conducting any litigation and negotiations for settlement of the IPR Claim.
- 9.5** If the Customer's acts or omissions result in the Company being unable to exercise any of its rights pursuant to clause 9.7 then the Customer shall fully indemnify and hold the Company harmless from and against all Losses sustained or incurred by the Company which might have been avoided but for such act or omission.
- 9.6** The Company may defend or make settlement of any IPR Claims at its own discretion and the Customer shall give such assistance as the Company may reasonably require to defend or settle any such IPR Claims.
- 9.7** In relation to any actual or threatened IPR Claim, the Company may at its sole option and expense:
- (a)** procure for the Customer the right to continue using the affected part of the Product and Product Documentation;

- (b) modify or amend the Product and Product Documentation provided that any such modification or amendment does not (in the Company's reasonable opinion) materially adversely affect the capability and functionality of the Product and/or the Documentation; or
- (c) replace the Product and Product Documentation (in whole or part) with other software of substantially similar capacity, capability and functionality or equivalent documentation, in which case (where practicable) the Customer shall immediately return to the Company the replaced parts of the Product and/or Product Documentation and all copies of them or, if so requested by the Company, shall irretrievably erase them from all Customer Host Systems and certify in writing to the Company (in such form as the Company may reasonably require) that they have been so destroyed and erased.

The remedies outlined in this clause 9.7 are the Customer's sole and exclusive remedies in relation to an IPR Claim.

- 9.8** The Company will give the Customer advance notification of the option it intends to pursue under clause 9.7. Following performance by the Company of any of the above options, the Company shall not be liable in respect of any continuing Use by the Customer of the infringing part of the Product and/or Product Documentation.

10 Licence Restrictions

- 10.1** Subject to clause 10.5, the Customer may Use the Product and Product Documentation for processing the Customer Data solely for its own internal business purposes in the Country of Use and for no other purposes whatsoever (but this does not prohibit remote access to the Product from outside the Country of Use). Without limitation, the Customer shall not permit the Use, implementation, configuration or support of the Product or Product Documentation by any third party, agent or subcontractor, nor shall it use the Product or Product Documentation on behalf of or for the benefit of any third party in any way whatsoever, including for the purpose of operating a bureau, rental or facilities management service. Breach of this clause 10.1 shall void the warranties (and remedies thereto) set out in clause 5.
- 10.2** The license granted pursuant to clause 10.1 shall commence from the Agreement Date and cease to exist upon the early termination or expiry of the Agreement Term.
- 10.3** The Customer may Use the Product to provide workforce management services to a Listed Affiliate for its own internal business purposes and may also permit the Use of the Product by a Listed Affiliate in connection with those services (subject always to clause 10.6). Such Use by a Listed Affiliate shall at no time create a direct contractual relationship between the Company and the Customer's Associated Company, and any requests or communications must in all cases come directly through the Customer.
- 10.4** The Product may contain modules in addition to those indicated in the Order Document as being licensed to the Customer. These additional modules are not covered by the licence granted under or pursuant to the Agreement. The Customer shall not access, copy or otherwise use these additional modules unless explicitly purchased in the Order Document. This includes exceeding the user/employee licence limit stipulated in the Order Document. Where the Customer exceeds this limit or uses unpurchased modules, the Company will charge the Customer for this backdated to when they were first used/exceeded.
- 10.5** The licence of the Product is limited to its Use in storing and/or processing Customer Data in relation to the number of Employees stated in the relevant Order Document.
- 10.6** The Customer shall keep exclusive possession of and control over all copies of the Product (including any Product Documentation) delivered to it or made by it and shall effect and maintain adequate security measures to safeguard them from access or use by any unauthorised person.
- 10.7** Except as expressly permitted by any applicable legislation, the Customer may not reverse engineer, reverse compile, disassemble, adapt, modify or correct any errors in the Product or any part of it.

- 10.8** The Customer shall not (whether itself or through any Associated Company, agent or third party):
- (a) copy, sell, transfer, lease, license, sublicense or otherwise deal (in whole or in part) with:
 - (i) the Product or Product Documentation;
 - (ii) any variations, modifications, copies, releases, versions or enhancements thereof; or (iii) any supporting software.
 - (b) have any supporting or other software or program written or developed for it based on any Confidential Information supplied to it by the Company or its Representatives.
- 10.9** If any unauthorised use is made of the Product or Product Documentation (including by virtue of any unauthorised assignment or novation of any licence, or the unauthorised grant of any permission to use) and such use is attributable to any act or omission of the Customer, then (without prejudice to the Company's other rights and remedies) the Customer shall pay to the Company an amount equal to the charges which the unauthorised user would have been obliged to pay had the Company granted a licence to the unauthorised user from the beginning of the period of the unauthorised use.
- 10.10** Failure of the Customer to adhere to the provisions contained within this clause 10 may constitute a breach of clause 15 (confidentiality).
- 10.11** This clause 10 shall not operate to preclude the use by the Customer of independent individual contractors, who are not direct employees of the Customer, to perform project management and business analysis roles as part of the project of implementing the Product, provided that those contractors:
- (a) first sign a confidentiality agreement with the Company in the Company's standard form; and
 - (b) only Use the Product or the Product Documentation for the purposes of the Customer's project management and/or business analysis.

11 Product Maintenance

- 11.1** The Company shall be responsible for installing Sub-Releases and Fixes in accordance with the Agreement and the Service Level Agreement.
- 11.2** The Company shall use its reasonable endeavours to amend, replace or add to the Product as may be required to give effect to Legislative Changes from the date when the Legislative Change takes effect, but not further or otherwise.
- 11.3** If the nature of a Legislative Change as enacted is such that the Company must incur substantial expense in modifying the Product to provide new functionality, then such functionality (including any Professional Services required for changes to Interfaces) shall be made available to the Customer as a new Sub-Release or an additional module of the Product at such reasonable extra cost (if any) as the Company shall from time to time determine. In such cases, the Company will use reasonable endeavours to provide the new functionality before the Legislative Change takes effect but shall not be liable if despite such endeavours it is unable to do so.
- 11.4** In providing Support Services, the Company shall not be obliged to take account of any additions or changes to local or national collective bargaining or similar arrangements whether statutory or otherwise or to any extra-statutory concessions, arrangements or scheme rules which are industry-specific or sector-specific and not applicable to employees in general in a particular jurisdiction.
- 11.5** The Customer shall:
- (a) notify each Product fault through the Company as it arises, and supply the Company upon request with a documented example of such fault as detailed in the Service Level Agreement;

- (b) co-operate fully with the Company in diagnosing any Product fault;
- (c) not request, permit or authorise anyone other than the Company or its Representatives to provide any support or maintenance services in respect of the Product;

11.6 The Company shall not be obliged to provide support for any part of the Product which has been installed or implemented by the Customer or its third party provider without the permission of the Company.

11.7 Hardware Support Services 11.7.1 If Customer has elected to purchase Hardware and/or Hardware Support Services from Company, subject to payment by Customer of all Charges payable under the Agreement (including the Hardware and support service Charges (as applicable)) and Customer's compliance with its obligations under the Agreement, Company will supply Customer with the Hardware and/or Hardware Support Services (as applicable) in accordance with the provisions of Clause 11 (Support Services), the Order Document and the Service Level Agreement.

11.7.2 If Customer purchases Hardware Support Services, Company will provide Customer with Company's standard Hardware Support Services during Normal Working Hours in accordance with the Service Level Agreement in effect at the time.

11.7.3 Site preparation. Customer shall ensure that all of the work specified in the Order Document is completed at each Customer site at least fourteen (14) days prior to the scheduled date of installation of the Hardware concerned. Customer shall, at its own expense, provide necessary power, telecommunication facilities, adequate operating environment in accordance with the Hardware specification and access for the Hardware, unless otherwise specified by Company. If Company is unable to complete the installation of the Hardware due to any act or omission of Customer, Customer shall bear Company's reasonable charges for additional storage, carriage and installation of the Hardware and Company shall not be liable to Customer for any delay in completing the installation of the Hardware.

11.7.4 Hardware warranty. Company does not provide any warranty for Hardware, however, will give the Customer the benefit of the Hardware vendor's standard warranty that may be offered to customers to the extent it is able to and the Company's obligation is limited to managing the warranty claim on behalf of the Customer.

11.7.5 Hardware defects. Notwithstanding the content of the Service Level Agreement, any defect in the Hardware or loss, damage, nuisance or interference whatsoever (consequential or otherwise) resulting from, or caused by or to, the Hardware, which results from interference or nuisance to the Hardware or from use in breach of any of the provisions of the Agreement, shall be the responsibility of Customer.

11.7.6 Additional charges. In the event that the Hardware: a) is, or has been, used in connection with any hardware, product or consumables not supplied or approved in writing by Company; b) has at any time been maintained, altered, modified, relocated or adjusted by persons other than Company, its employees or its authorised agents; c) is, or has been, used in breach of any of the provisions of the Agreement; or d) requires maintenance or an increase in normal maintenance service time by reason of the fault or negligence of Customer, or for any other reason other than normal use, then Company shall have the right if, in its sole discretion, it repairs or replaces the Hardware, to levy such additional charges as are reasonable.

11.7.7 Hardware Support Services restrictions. The Customer acknowledges that the Hardware Support Services shall be provided on a reasonable endeavours' basis where: (a) the Hardware has been designated end-of-life by the manufacturer; or (b) the Hardware is more than five (5) years old. The Customer further acknowledges its obligation to refresh each item of Hardware at least every five (5) years in order to continue receiving Hardware Support Services on a basis other than reasonable endeavours. The Company reserves the right to cease providing Hardware Support Services for any Hardware that is more than five (5) years old or is designated end-of-life. Where the Company, in its sole discretion, elects to provide Hardware Support Services for such Hardware, it may levy a premium support fee prior to any renewal period. In such circumstances, support shall be limited to reasonable endeavours performed remotely, and the sourcing of spare parts or replacement Hardware shall be excluded from the scope of the Support Services.

11.7.8 Customer Obligations – Hardware Customer shall: a) provide all cabling and other equipment needed for the installation of the Hardware at the Customer site(s); b) ensure that the Hardware is kept under suitable conditions, as specified by Company or set out in any Hardware Manuals of the Third Party Product(s) vendor, and permit only trained and competent personnel to use it and follow any operating instructions as Company may give from time to time; c) notify Company promptly if the Hardware is discovered to be operating incorrectly; d) at all reasonable times permit full and free access to the Customer sites and to the Hardware to Company, its Representatives, and provide them with adequate and safe working space and any telecommunications facilities as are reasonably required to enable Company to perform the Support Services; e) provide Company with any information that is reasonably requested in the performance of the Support Services; f) take any steps reasonably necessary to ensure the safety of Company's personnel when attending the Customer site(s); g) not allow any person other than Company to maintain, alter, modify or adjust the Hardware without the prior written approval of Company; h) not move the Hardware from the location at which it was installed without the prior written approval of Company (such approval not to be unreasonably withheld or delayed); i) store any spare Hardware

only in conditions approved by Company or as required by the Third Party Product(s) vendor, and make this spare Hardware available for periodic maintenance, as with all installed Hardware; and j) only use supplies or materials supplied or approved by Company (such approval not to be unreasonably withheld or delayed). 11.7.9 Title to the Hardware shall not pass to Customer until payment of the Charges in respect of the Hardware has been discharged in full. 11.7.10 Risk in any part of the Hardware shall pass to Customer upon delivery at the Customer site(s) or any other place specified by Customer and agreed by Company for delivery.

11.7.11 In addition to Company's rights under Clause 7.6(c), if the Hardware Support Services expire or are terminated, and Customer wishes to have them reinstated, Company shall be entitled to first inspect the Hardware to determine whether or not the Hardware is capable of being supported, and shall be entitled to charge Customer for its costs incurred in conducting such an inspection, reinstatement fees to cover the elapsed period where there had been no support, in addition to the applicable Charges to provide the Hardware Support Services.

11.8 Third Party Product(s)

11.8.1 The Customer accepts that Third Party Product(s) are licensed in accordance with the Agreement and the relevant third party terms and conditions (available upon request).

11.8.2 The licence of the Third Party Product(s) shall commence on delivery of the Third Party Product(s) and shall continue until it terminates in accordance with the Agreement.

11.8.3 The Company licences the Third Party Product(s) to the Customer only for Use in conjunction with the Product and/or Service licensed by the Company. The Customer shall: a. only Use the Third Party Product(s) in conjunction with such Product; and b. in its Use of the Third Party Product(s), comply with any obligations and restrictions applicable to such Product under the Agreement as if such obligations and restrictions also referred to such Third Party Product(s).

11.8.4 To the extent it is offered by such third party vendor and Company is able to do so, the Company will pass on to the Customer the benefit of any warranty given by the relevant third party provider in relation to the Third Party Product(s).

11.8.5 The Company shall be entitled to pass on to the Customer by way of an increase in the Third Party Product(s) licence charge any price or cost increases imposed on the Company by a third party provider that is beyond annual RPI increase. The Company shall provide the Customer with notice in writing of any such increase.

11.8.6 The provision of maintenance and support services by the Company for any Third Party Product(s) is limited to that described in the Agreement.

11.8.7 Queries and requests for support and maintenance relating to a Third Party Product(s), may, where the Company is unable to resolve the issue, be referred to the relevant third party provider. The Company shall have no further obligations in relation to such queries and requests.

11.8.8 The Customer will indemnify the Company from and against any Losses (including claims from any third party provider) suffered or incurred by the Company in connection with any failure by the Customer to comply with the terms of the Third Party Terms and the Agreement.

12 Project Implementation

12.1 The parties shall work together (both acting reasonably and in good faith) to ensure the successful installation and implementation of the Product for live use (the "Implementation Project").

12.2 Subject to clause 12.1, the Company's Project Manager will manage the Implementation Project with the Customer's full co-operation. This will include the scheduling of work assignments for each party's Representatives to deliver the Implementation Project, which will be subject to approval by the Customer's Project Manager (not to be unreasonably withheld or delayed).

12.3 Charges for postponements of up to 10 working days ("Postponement Period") by the Customer of a specific activity set out in the work assignment shall be made pursuant to the following calculations. If the Customer postpones giving prior notice of;

- (a) more than 10 Working Days the additional charge equals commensurate project management charges ("Project Management Charge") for extending the project by up to 10 working days and the overall authorised limit shall be increased to include the additional commensurate Project Management Charge, along with the extension to the timeline of up to 10 working days commensurate with the Postponement Period;
- (b) fewer than 10 clear Working Days equals 100% of the relevant Charges for such activity ("Postponement Charge") and the overall authorised limit shall be increased to include the Postponement Charge, along with the extension to the timeline of up to 10 working days commensurate with the Postponement Period;

In each case the calculation is made from the scheduled date of such specific activity set out in the delivery schedule.

For any periods of delay by Customer beyond the Postponement Period shall be subject to additional charges being levied in addition to the 12.3 (a) or (b) commensurate with the delayed activities and periods of delay of the project, which will be payable by the Customer and advised by Company through Clause 13 (Change Control).

12.4 The Customer's Project Manager will be responsible for managing the Customer's contribution to the Implementation Project. The Customer shall at no cost to the Company:

- (a) provide all the Company's Representatives when at the Customer's Site with such facilities, equipment and media as may be reasonably necessary for the provision of the Implementation Services;
- (b) provide appropriately qualified and experienced staff in sufficient numbers to fulfil the Customer's tasks as part of the Implementation Project;
- (c) ensure that its staff co-operate fully with the Company's Representatives; and
- (d) promptly provide the Company's Project Manager and the Company's Representatives with such information and documents as they may reasonably request, including making decisions on the Implementation Project without undue delay.

12.5 Once the Company has completed its performance of any Professional Services the Customer shall (if it so requires) have a period of 10 Working Days (an "Acceptance Period") to review and sign-off acceptance of the Deliverables provided by the Company.

12.6 If the Customer does not raise any objections, issues or concerns in respect of the performance of the Professional Services during the Acceptance Period, the Customer will:

- (a) be deemed to be satisfied with and otherwise to have accepted such Professional Services; and
- (b) not be entitled to raise them subsequently (under clause 5 (warranties) or otherwise). For the avoidance of doubt, this clause is not intended to prevent the Customer from accessing remedies available under Support Services.

13 Change Control

- 13.1** Either party shall be entitled to request a change to particular Services or to the terms of the Order Document applicable to them by giving the other party notice in writing of such change (a "Change Control Request"). Performance of any Change Control Request shall be subject to additional Charges.
- 13.2** A party receiving a notice under clause 13.1 shall consider it carefully and in good faith. Where the parties agree a particular change, they shall execute a change control notice formally recording the terms and details of the change. Subject to clause 13.3 and 13.4, until such change control notice is validly executed by both parties, the parties' obligations shall remain as set out in the then current versions of this Agreement.
- 13.3** In the event the Customer requests (whether verbally or in writing) that the Company performs the Services as outlined in the Change Control Request, the Company shall be entitled to Charge the Customer for such Services and the Customer shall pay such Charges in accordance with clause 7 (Charges).
- 13.4** The details of Support Services and the provisions thereof may be amended at any time by the Company upon 30 days' written notice by the Company to the Customer, provided that such amendment does not materially reduce the level of Support Services provided.

14 Confidentiality

- 14.1** Each party may receive from the other party Confidential Information of the other party and neither party shall use, copy or disclose any Confidential Information to any third party (except the Company's third party vendors in pursuance of providing the Services) without the other party's prior written consent.
- 14.2** Nothing in clause 14.1 shall prevent either party from disclosing Confidential Information to such of its Representatives that require access to the Confidential Information in the performance of that party's obligations, provided that such Representatives are contractually bound not to disclose the same.
- 14.3** Without prejudice to clause 14.1, the Product, Services, Third Party Product(s) or Documentation and any information, data and specifications which the Company may from time to time licence to the Customer or its Listed Affiliates under the terms of this Agreement, are proprietary and confidential to the Company (or its suppliers or licensors), and the Customer shall keep them confidential in accordance with clause 14.1.
- 14.4** The restrictions in clause 14.1 and 14.3 shall not apply to:
- (a) items which were already in the possession of the party concerned before disclosure (except as a result of a breach of the Agreement);
 - (b) items obtained from another source which is free to disclose the same;
 - (c) items which are in the public domain (except as a result of a breach of the Agreement);
 - (d) the compiling and copying of elements of the Customer Data (which do not, taken together, comprise personal data or allow for the Customer or its employees to be identified) by the Company for the purposes of collating aggregated data or statistics for research purposes; or (e) information disclosed in accordance with clause 14.5.
- 14.5** The Customer is responsible for inputting and managing the Customer Data residing in the Product and responsible for responding to any requests under the Freedom of Information Act 2000 ("FOIA").
- 14.6** Upon termination of the Agreement, both parties shall, at the request of the other, either return, destroy or delete the other party's Confidential Information and supply written evidence of the same, except such Confidential Information that must be retained for retention of records purposes as required by law.

15 Data Protection / UK GDPR

15.1 Scope and Status of Parties

15.1.1 The terms “controller”, “data subject”, “personal data”, “personal data breach”, “process” (“processed” to be construed accordingly) and “processor” shall have the same meanings as in the EU General Data Protection Regulation (EU)2016/679 (the “GDPR”). “Data Protection Laws” means the GDPR, the UK Data Protection Act 2018 and any replacement or supplementary legislation applicable to the processing of personal data applicable in the European Union or the United Kingdom from time to time. Unless otherwise set out in the Order Document, Annex A to this Agreement sets out the scope, nature and purpose of processing by the Company, the duration of the processing and the types of personal data and categories of data subject.

15.1.2 Company acts as a data processor on behalf of Customer with respect to any personal data which is processed by Company on behalf of Customer or any Affiliate (each a “Customer Group Member”) under the Order Document to the extent that it relates to the Product (including in relation to any Support Services and Professional Services to be performed by Company in relation to the Product under such Order Document) (the “Customer Personal Data”). Customer may act as controller or processor in respect to Customer Personal Data. This Clause 15 sets out Company’s data processing obligations to Customer in respect of Customer Personal Data. Details of the applicable processing activities (including categories of personal data and data subjects) are described in Annex A to this Agreement.

15.1.3 Customer warrants, represents and undertakes to Company that it (or the applicable Customer Group Member): a) will comply at all times with the Data Protection Laws; b) has all necessary consents and notices in place to enable lawful transfer (including international transfers, if any) of Customer Personal Data to Company for the duration of the Agreement (including without limitation, lawful grounds for processing); and c) will not transfer any Customer Personal Data to Company in connection with the provision of Services by Company, other than Customer Personal Data of Customer employees to the extent necessary for such employees to liaise with Company in respect of such Services.

15.2 Company’s obligations. Where Company processes Customer Personal Data under or in connection with the performance of its obligations under the Agreement, Company shall:

15.2.1 process the Customer Personal Data only in accordance with the Agreement and with other mutually agreed and documented instructions of Customer (including in relation to any international transfer of Customer Personal Data made in accordance with Clause 15.3);

15.2.2 implement appropriate technical and organisational measures necessary to meet the requirements of Article 32 of the GDPR;

15.2.3 ensure Company staff authorised to process Customer Personal Data are subject to appropriate confidentiality obligations;

15.2.4 be entitled to engage sub processors to process Customer Personal Data (and this Clause 15.2.4 shall be deemed Customer’s general written authorisation to the same). Company shall: a) ensure that equivalent requirements to those set out in this clause 15.2 are imposed on any sub processor(s) through a written agreement; b) remain liable to Customer for the performance of the sub-processor’s obligations; and c) where applicable, provide to Customer reasonable prior notice of any addition or replacement of such sub processors.

Without prejudice to the foregoing general authorisation to appoint sub-processors, Customer will be deemed to have specifically consented to any new appointment if no objection is received within five (5) Business Days of Company’s notification;

- 15.2.5** taking into account the nature of the processing and the information available to Company, reasonably assist Customer to fulfil Customer's obligations under the Data Protection Laws: a) to respond to data subjects' requests exercising their rights; and b) with respect to security, data protection impact assessments, data breach notifications and consultations with data protection supervisory authorities;
 - 15.2.6** save as required by law, at Customer's option, either delete or return Customer Personal Data in Company's possession to Customer on expiry or termination of the Agreement;
 - 15.2.7** make available to Customer such information as Customer reasonably requests and Company is reasonably able to provide, and, upon request, provide a copy of Company's ISO 27001 certificate; and
 - 15.2.8** notify Customer without undue delay after becoming aware of any personal data breach involving Customer Personal Data. Company shall be entitled to charge Customer, at Company's then-current rate card and expenses policy, for any Company effort or costs under clauses 15.2.5 to 15.2.7 (inclusive).
- 15.3** International transfers. Company shall not transfer Customer Personal Data to any country or territory outside the European Economic Area (EEA) without Customer's prior written consent (such consent not to be unreasonably withheld or delayed). For the purpose of this clause 15.3, Customer hereby consents to Company transferring Customer Personal Data to those entities in the territories listed in the Order Form and sub processors listed in Annex A to these Product Terms. Any transfers authorised in accordance with this clause 15.3 shall be subject to appropriate safeguards or derogations under Data Protection Laws. Where requested to do so by Company, Customer shall execute the appropriate approved standard contractual clauses for transfers of Customer Personal Data from the EEA or the UK to third countries ("Standard Contractual Clauses") as data exporter with the applicable Company data importer entity and, where relevant, procure that the relevant data controller entity does the same. Customer agrees that if, pursuant to the Standard Contractual Clauses, Company is obliged to provide a copy of any applicable sub processor agreement, such agreement may have all commercial information, or clauses unrelated to the Standard Contractual Clauses, removed by Company beforehand and that such copies will be provided by Company in a manner to be determined in its discretion and only upon request by Customer.

16 Personnel

- 16.1** Each party shall take all reasonable precautions to ensure the health and safety of the other party's Representatives while such Representatives are at its premises, and to ensure that its own Representatives observe the other party's safety rules and procedures (as provided by each party to the other) while such Representatives are on the other party's premises.

17 Compliance with Contract Documents

- 17.1** The Company shall be entitled to take reasonable steps to verify and confirm that the Customer's use of any Product, Services, Third Party Product(s) complies with the Customer's obligations under this Agreement in relation to such use (including that the Customer is only using any Product to the extent it is licensed to do so).

18 Force Majeure

- 18.1** In this clause 18, the expression “Force Majeure” shall mean an event which is beyond the control of an affected party and which such party could not anticipate or mitigate by means of insurance, contingency planning or any other prudent business means. Any event will only be considered Force Majeure if it is not attributable to the wilful act, neglect, default or other failure to take reasonable precautions of the affected party, its agents, employees or contractors. Industrial dispute or action shall not give rise to an event of Force Majeure.
- 18.2** No party shall in any circumstances be liable to the other party for any Losses suffered by the other party by reason of any failure or delay in the performance of its obligations under this Agreement which is due to Force Majeure. Notwithstanding the foregoing, each party shall use all reasonable endeavours to continue to perform, or resume performance of, such obligations for the duration of such Force Majeure.
- 18.3** If either party is unable to perform its obligations under this Agreement due to Force Majeure for a consecutive period of more than three months the other party may terminate this Agreement by notice in writing and the provisions of clause 8.2(d) shall apply.

19 Anti-Bribery and Anti-Slavery

- 19.1** Each party shall:
- (a) comply with all applicable laws, statutes, regulations, codes and guidance relating to anti-bribery and anti-corruption (“Anti-bribery Laws”), including the Bribery Act 2010;
 - (b) not do, or omit to do, any act that will cause the other party to be in breach of the Anti-bribery Laws;
 - (c) promptly report to the other party any request or demand for any undue financial or other advantage of any kind received by it in connection with the performance of the Agreement;
 - (d) maintain throughout the term of the Agreement its own anti-bribery policies and procedures to ensure compliance with the Anti-Bribery Laws, provide a copy of such policies and procedures to the other party on request, and enforce such policies and procedures where appropriate.
- 19.2** Each Party shall:
- (a) comply with all Applicable Laws relating to anti-slavery including the Modern Slavery Act 2015 (“Relevant Requirements”);
 - (b) not engage in any activity, practice or conduct which would constitute an offence under the Modern Slavery Act 2015 if such activity, practice or conduct had been carried out in the United Kingdom;
 - (c) have and maintain in place throughout the Term its own policies and procedures, including adequate procedures to ensure compliance with the Relevant Requirements, and will enforce them where appropriate.

20 Waiver

- 20.1** Failure or neglect by either party at any time to enforce any of the provisions of the Agreement shall not be construed as, neither shall it be deemed to be, a waiver or abandonment of the respective rights of that party nor in any way affect the validity of the whole or any part of the Agreement nor prejudice that party’s rights to take subsequent action.

21 Severability

- 21.1** If any limitation or provision contained in the Agreement shall be determined invalid, unlawful or unenforceable it shall be severed from the remainder of the Agreement which shall continue to be valid to the extent permitted by law.

22 Assignment and Third Party Rights

- 22.1** The Company shall be entitled to assign the benefit (subject to the burden) of the Agreement to a company which succeeds to the business of the Company as a result of any internal reorganisation reconstruction or amalgamation of the Company or any group of companies of which the Company from time-to-time forms part.
- 22.2** Where the Customer is a statutory authority or agency, it shall be entitled to assign the benefit (subject to the burden) of the Agreement to anybody which by law shall succeed to the functions of the Customer.
- 22.3** Save as provided for in clauses 22.1 or 22.2, neither party may assign, novate, sub licence or otherwise the Agreement or any rights or obligations under it whether in whole or in part, without the written consent of the other party (such not to be unreasonably withheld or delayed).
- 22.4** The Agreement shall be enforceable by the original parties to it and by their successors in title and permitted assignees.
- 22.5** A person who is not a Party to the Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement, except for an Affiliate of the Company or a Listed Affiliate of the Customer for the purpose only of enforcing its rights under the indemnities in the Agreement granted in its favour. The rights of the Parties to rescind or vary the Agreement are not subject to the consent of any other person.

23 Entire Agreement

- 23.1** The Agreement, together with the documents referred to in it, constitutes the entire agreement and understanding between the parties in respect of the matters dealt with in that Agreement and supersedes cancels and nullifies any previous agreement between the parties relating to such matters notwithstanding the terms of any previous agreement or arrangement expressed to survive termination.
- 23.2** Each of the parties acknowledges and agrees that in entering into the Agreement, and the documents referred to in it, it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to the Agreement or not) other than as expressly set out in the Agreement as a warranty. The only remedy available to it for breach of the warranties will be as set out in the Agreement.

24 General, Notices and Communications

- 24.1** Any terms and conditions contained within the Customer's form of order shall not apply and be superseded by the terms of the Agreement.
- 24.2** Any variation of the Agreement shall only be binding if it is in writing and signed by the Authorised Representative of each party.

24.3 The Customer will procure that its Listed Affiliates comply with the terms of this Agreement as well as any restrictions on the Customer under the Agreement as if they were a party to the Agreement. The Customer shall be liable for the acts and omissions of its Listed Affiliates as if they were the acts and omissions of the Customer.

24.4 Any notice required or permitted under the terms of the Agreement or required by law shall be in writing (in English) and shall either be i) delivered in person; ii) sent by first class mail; iii) or air mail or by email; to the Authorised

Representative of the party to whom the notice is being given to the other party's representative and at the address stated in this Agreement . It shall be deemed to have been given upon delivery (if delivered in person), or otherwise 48 hours after having been posted and for the purposes of delivery by email, a delivery receipt or acknowledgement of receipt by the recipient.

25 Law and Dispute Resolution

25.1 If any dispute between the parties about either the interpretation of the provisions of the Agreement or the performance by either of the parties of its obligations under the Agreement cannot be resolved at an operational level, upon the written request of either party, each party will within 3 Working Days after the date of service of such written request appoint a designated representative (being a senior member of staff of the party who does not devote a substantial part of his time to the operation or performance of the Agreement) who will meet with the equivalent representative of the other party to endeavour to resolve such dispute subject to the further provisions of this clause 25. Nothing in this clause 25 will prevent either party from seeking injunctive or interlocutory relief or interlocutory remedies from the Courts in relation to any dispute.

25.2 In any attempt to resolve a dispute in accordance with clause 25.1:

- (a) designated representatives will meet as often as the parties reasonably deem necessary to gather and exchange all information regarding the matter in issue which the parties believe to be relevant to its resolution;
- (b) such representatives will discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceedings;
- (c) during the course of such negotiation, all reasonable requests made by one party to the other for information will be honoured so that each party may be fully advised of the relevant facts. The specific format for such discussions will be left to the discretion of the relevant representatives.

25.3 If the parties agree to attempt to resolve the dispute but after 14 days have been unable to do so, then the matter may be referred to a UK court of competent jurisdiction. In doing so both parties agree to pay the legal costs of the party whose complaint is upheld by the court as well as any damages.

25.4 As of the date of the last signature hereto, the formation, existence, construction, performance, validity and all aspects whatsoever of the Agreement shall be governed by the laws of England and Wales. The courts of England and Wales have exclusive jurisdiction to settle any disputes arising out of or in connection with the Agreement.

ANNEX A

Processing Activities

1. Approved Sub-processors (As may be amended from time to time);
<https://www.advt-group.com/advt-group-subprocessors>
2. Processing Activities

Subject matter of the processing	Personal data relating to workforce management and the completion of activities relating to flexitime, time and attendance and access control.
Duration of the processing	The personal data will be processed for the duration of the Agreement Term. The Customer is responsible for inputting and managing its personal data residing in the Product. The Customer is responsible for removing its data prior to the expiry or termination of the Agreement Term and may request reasonable and chargeable assistance from the Company to assist with extraction of the Customer Data upon expiry. The Company will confirm the Customer has removed its data following expiry of the Agreement Term and the Company will delete the Customer Data upon expiry or early termination of the Agreement. The Company may be required to retain some Customer Data in accordance with its retention policies as required by law e.g. invoices, contract documents etc.
Nature and purpose of the processing	Data inputted and recorded by the Data Controller in the Products(s), relating to workforce management, time and attendance and/or access control will be held and processed on Company's hosted infrastructure. The Customer Data will be processed by the Company to provide the Product and/or Services in accordance with the Agreement.
Type of personal data processed	Personal Data which may include: Name; Address; Telephone Number; email; Date of Birth; Nationality; Passport and Identity Verification; Absence events and reasons for absence; Pay rate; Job Title; Job Grade; Contracted Hours; and Skills.
Categories of data subjects	Customer personnel.
Obligations and rights of Customer	The Customer is responsible for all Customer Data it inputs and manages in the Product's and/or Services and the obligations and rights of Customer are set out in the Agreement.

ANNEX B

HFX Support Service Level Agreement

HFX Support Summary

Welcome to HFX Support. This guide explains how our customer services and support team operates to resolve your issues efficiently.

Support Call Tickets

We use a ticketing system to track and manage all support queries. Every issue is assigned a unique ticket number, which allows you to check progress and receive updates.

Customer Responsibilities

Only trained users should contact the support team. The team assists with issue resolution but does not provide training and may decline support if the user lacks necessary training. The support desk may also decline to provide support for customers whose accounts are in arrears.

Information Required When Logging a Call

Providing detailed information helps speed up resolution. When raising an issue, include the following.

- ✓ Software & version you are using
- ✓ Data collection devices involved
- ✓ Issue details (error messages, steps to reproduce, affected users/devices)
- ✓ Impact on operations (for prioritisation)
- ✓ Screenshots or photos if applicable
- ✓ Physical site address (for onsite support, if applicable)

Log a Ticket in 4 Ways

Email

Send details to **support@hfx.co.uk**. You'll get a ticket number and link to track progress.

Best for complex issues requiring screenshots or logs etc.

Phone

Call **0330 122 7200** (ext **5** then **2**) for our 1st line team. Usually answered within 3 minutes.

Line is manned between 09:00 and 17:00.

Portal

Visit <https://hfxworkforce.odoo.com/helpdesk/>. Log in (or register) to submit and monitor tickets.

Best for complex issues requiring screenshots or logs etc.

Live Chat

Visit <https://hfxworkforce.odoo.com> and click on the chat bubble in the bottom right.

Chat is manned between 09:00 and 17:00.

Tip: Check your SPAM folder if you don't see our confirmation email.

Support Process

- 1 **Ticket Submitted** — Support request submitted via email, ePortal or telephone.
- 2 **Ticket Triaged** — 1st line support will assess your ticket and assign the correct priority level.
- 3 **Ticket Worked** — Support will work on your issue and reach out to you if they require any additional information or clarification on your issue.
- 4 **Ticket Solved** — Ticket will be marked as solved and you will be asked for feedback on how the support team performed. Tickets will also be automatically closed if you do not respond to a message from us after 7 days.

Ticket Priorities

For Product related issues we use the following to assess priority.

Priority level	Definition	Explanation
Urgent	Complete system failure	All areas of the solution have failed
High Priority	Major Failure	Significant parts of the system have failed. E.g. Payroll
Medium Priority	Partial Failure	One part of the system functionality is not functioning, such as a report.
Low Priority	Query	Requests for information or changes

For Hardware related issues we use the following to assess priority.

Priority level	Type of Incident	Resolution
Urgent	Complete System Failure	A location where ALL terminals are at fault and users are unable to use any other terminals and this will have a direct impact on an impending Payroll Process and external access control.
High	Major Failure	A location where a terminal is reported as faulty, and users are unable to use other terminals at that location. No immediate impact on Payroll Process.
Medium	Minor Failure	A location where a terminal is at fault. Users can use other terminals at that location for time recording. No immediate impact on Payroll Process.
Low	General Queries	Non failure related enquires.

SLA (Service Level Agreement) for Ticket Priority

Below is our SLA for response and resolution times (within working hours)

Priority level	First Response Time	Resolution
Urgent	1 hour	7.5 hours
High Priority	1 hour	15 hours
Medium Priority	1 hour	37.5 hours
Low Priority	1 hour	75 hours

SLA for SaaS Availability

The Imperago and EveryOneCloud solutions are available 24/7 with availability exceeding 99.75% (excluding Scheduled Downtime).

Scheduled Downtime, which is used to update the solution and/or hosting platform, will be notified to the customers at least 12 days before the downtime commences.

Unplanned downtime is defined as a failure in our hosting environment that denies users access to the entire solution and will automatically alert our hosting team as a priority 1 (Urgent) level event.

Further information is documented in our SaaS and Hosting Downtime Policy.

Support Coverage

Product

If you have a subscription to any of our SaaS offerings, then Product support is included within your costs. If you are using one of our legacy systems, such as Vanquish or Etarmis then Product support will be contingent on what is stated in your contract.

As previously stated, access to Product support is only available to trained users and clients with accounts in good standing. They can answer specific questions (e.g. "how do I apply a shift pattern") but they do not provide training (this can be scoped and arranged at an additional cost) or provide a managed service (E.g. applying the shift pattern on behalf of the customer).

Hardware

To be eligible for hardware support you must currently be paying for RTB (Return to Base) or onsite hardware support. Otherwise, you will have to pay our engineer day rate of £982.50 Ex VAT.

What is covered by Hardware Support?

- Device failure
 - Unit does not Power up.
 - Component failure, e.g. camera, card reader, ethernet port, wi-fi chip, etc.
- Firmware errors
 - Preventing the device from powering up and operating within normal parameters.
 - Failure to retain settings.

What isn't covered by Hardware Support?

- Environment factors
 - Local Network errors and WAN access errors IP address issues.
 - Power supply to the unit.
- Physical Damage to unit
 - From deliberate mistreatment
 - Accidental damage
- Stemming from incorrect self-install
 - Failure to follow install instructions.
 - Device placed in unsuitable environment.
 - Firewall rules preventing access.

If our engineer attends site and finds any of the above issues that are not covered by your hardware support contract, this will incur a standards callout fee, currently £982.50 ex VAT (subject to annual indexation adjustment).

Hardware Return – RTB Support

When a terminal is returned to HFX for assessment or repair please ensure that an incident ticket has already been raised. Please include the ticket reference on your delivery note.

Failure to include a ticket reference or sending equipment back without an incident ticket having been raised beforehand may cause delays in the process.

Devices returned to HFX undergo an initial assessment and if required may be returned to the manufacturers for further assessment and/or repair.

Response & Resolution Times – from receipt of goods

Repair Type	HFX Assessment	Manufacturer's Assessment	Resolution & Dispatch
HFX Repair	2 days	—	2 weeks
Manufacturer's Repair	2 days	2 weeks	4 weeks
Manufacturer's Warranty	2 days	2 weeks	4 weeks

Hardware that is found to be faulty due to misuse, poor housekeeping or malicious damage is not covered by the HFX support agreement and all parts and labour will be charged at current rates and in such cases 'Swap outs' will not be offered without a confirmed commercial agreement in place to cover the cost of the hardware and visit.