
TERMS OF USE AND LICENCE AGREEMENT

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE USING THE CLIENT PORTAL

These terms confirm the rules for using the client portal which is accessible via the website <https://www.s2bonline.net> (or such other website as we may communicate to you from time to time).

By subscribing to the services and accessing and using the client portal, you confirm that you accept these terms of use and that you agree to comply with them.

If you do not agree to these terms, you must not use the client portal.

We recommend that you print a copy of these terms for future reference.

We amend these terms from time to time. Every time you access the client portal, please check these terms to ensure you understand the terms that apply at that time.

We may also update and change the client portal from time to time to reflect changes to our products, our users' needs and our business priorities. We will try to give you reasonable notice of any major changes.

Your attention is drawn in particular to the provisions of clause 15 (limitation of liability).

Click on the links below to go straight to more information on each area:

TABLE OF CONTENTS

1.	Interpretation	3
2.	Services	7
3.	User subscriptions.....	8
4.	Additional user subscriptions	11
5.	Client data and the content.....	11
6.	Data protection	12
7.	Third party providers.....	13
8.	The Company's obligations	13
9.	Client's obligations.....	14
10.	Charges and payment	15
11.	Proprietary rights	15
12.	Confidentiality	16
13.	Compliance with laws and policies	17
14.	Indemnity.....	17
15.	Limitation of liability	19
16.	Term and termination	20
17.	Consequences of termination	21
18.	Force majeure	22
19.	Conflict	22
20.	Variation	22
21.	Waiver	22
22.	Rights and remedies.....	22
23.	Severance	23
24.	Entire agreement.....	23
25.	Assignment	23
26.	No partnership or agency	23
27.	Third party rights	23
28.	Notices	23
29.	Governing law	24
30.	Jurisdiction	24
	Schedule 1 Subscription Fees	25

This client portal is owned and operated by:

CRANBERRY DOCUMENTS LIMITED T/A S2B ONLINE, which is a company incorporated and registered in England and Wales with company number 10298350 whose registered office is at 31 Church Road, Manchester M22 4NN (the "**Company**").

For the purposes of this terms of use and licence agreement (the "**Agreement**"), you confirm that you are using the client portal in a business/commercial capacity only and are referred to hereafter as the "**Client**".

BACKGROUND

- (A) The Company has developed certain software programmes and applications which it makes available to subscribers online via the Portal for the purpose of managing and administering processes, actions and documentation requirements associated with risk, health and safety and documentation management.
- (B) The Client wishes to access the Portal and use the Software and Services in its business operations.
- (C) The Company has agreed to provide and the Client has agreed to take and pay for its use of the Software and Services subject to the terms and conditions of this Agreement.

AGREED TERMS

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

"Additional User Subscriptions"	any additional User Subscription granted by the Company in accordance with clause 4.
"Additional User Subscription Fees"	the subscription fees from time to time payable by the Client to the Company in respect of any Additional User Subscriptions (which fees, effective as at the Effective Date, are set out in Schedule 1).
"Authorised Location(s)"	the location(s) of the Client where it is agreed by the Company in writing on the Effective Date that the Client can access the Portal and use the Services, together with any other locations from time to time agreed by the Company in accordance with clause 4.
"Authorised Users"	those employees, agents and independent contractors of the Client who are authorised by the Company (subject to the terms of this Agreement) to use the Services and access the Portal as further described in clause 3.2.4.

"Business Day"	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for non-automated business.
"Confidential Information"	<p>information that is proprietary or confidential (however recorded or preserved) disclosed by a party or its representatives to the other party and/or that party's representatives whether before or after the date of this Agreement in connection with this Agreement, including but not limited to:</p> <ul style="list-style-type: none"> (a) any information that would be regarded as confidential by a reasonable business person relating to the business, products, services, affairs, customers, clients, and suppliers of the disclosing party (or of any member of the group of companies to which the disclosing party belongs) to include plans, intentions, dealings, transactions, affairs, prices or charging rates, business methods, ideas, finances and/or market opportunities; (b) the operations, processes, product information, know-how, designs, trade secrets or software (including but not limited to the Software, Portal and the Proprietary Information) of the Company; (c) the Client Data, the Documents and any information contained therein that is uploaded by the Client to the Portal; and (d) information identified as Confidential Information in clause 12.4.
"Content"	all material (including the Client Data and Documentation together with any text, information, links and other content) that the Client, Authorised Users, and/or the Company on the Client's behalf, publishes posts, uploads, distributes, disseminates, inputs or otherwise transmits via the Portal for the purpose of using the Portal or facilitating the Client's use of the Portal.
"Client Data"	the Client's data (to include but not limited to any data included in the Documentation together with any text, information, links and other content).
"Client Portal Handbook"	the handbook (as amended and updated from time to time) available at http://www.safety2business.com/s2b-online.html (or such other website as may be notified to the

	Client from time to time) which provides a detailed description of the Services.
"Documentation"	the Client's documents and information uploaded to the Client's user area and accessible by the Client online via the Portal.
"Effective Date"	the date that the Company provides the Client with access to the Portal.
"Excess Data Storage Charges"	the Company's excess data storage charges as notified to the Client from time to time (which charges currently effective are set out in Schedule 1).
"Initial Subscription Term"	12 months from the Effective Date.
"Intellectual Property Rights"	patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.
"Renewal Period"	the period described in clause 16.1.
"Permitted Storage Space"	500 MB.
"Portal"	the Company's online, cloud based, client portal accessible via the Website, which is a private online environment to which the Client is given access by way of security protected username and password and which allows the Client to access the Services;
"Proprietary Information"	has the meaning set out in clause 11.1.
"S2B"	Safety 2 Business Limited, a company incorporated and registered in England and Wales with company number 06295308 whose registered office is at 31 Church Road, Manchester, M22 4NN.
"Services"	the subscription services as set out in clause 2 (together with such other services as the Company may from time to time agree in writing to provide),

provided by the Company to the Client under this Agreement by means of the Software via the Portal.

"Software"	the online software (comprising of a risk and document management programme for businesses) provided by the Company in relation to the Portal as part of the Services.
"Subscription Fees"	the subscription fees from time to time payable by the Client to the Company for the User Subscriptions, (which fees, effective as at the Effective Date, are set out in Schedule 1).
"Subscription Term"	has the meaning given in clause 16.1 (being the Initial Subscription Term together with any subsequent Renewal Periods).
"Termination Date"	the date of termination of this Agreement, howsoever caused.
"User Subscription"	the user subscription purchased by the Client pursuant to clause 10.1 which entitles Authorised Users to access the Portal and use the Services at the Authorised Location(s) in accordance with this Agreement.
"Virus"	any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.
"Website"	www.s2bonline.net (or any other website notified to the Client by the Company from time to time).

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this Agreement.
- 1.8 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this Agreement under that statute or statutory provision.
- 1.9 A reference to writing or written includes email but not faxes.
- 1.10 References to clauses and schedules are to the clauses and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule to this Agreement.

2. **SERVICES**

- 2.1 The Company shall, subject to the terms of this Agreement, during the Subscription Term facilitate the operation of the Portal and provide the subscription services to the Client via the Portal to include:
 - 2.1.1 document storage;
 - 2.1.2 action plans;
 - 2.1.3 sector related documents;
 - 2.1.4 personal calendar;
 - 2.1.5 task management and discussions;
 - 2.1.6 live chat;
 - 2.1.7 audit trail; and
 - 2.1.8 secure access,a more detailed description of which is available in the Client Portal Handbook (together the “**Services**”).
- 2.2 The Company may update and change the Services available from time to time to reflect changes to its products, user needs and business priorities. The Company will try to give the Client reasonable notice of any major changes.
- 2.3 The Company shall provide to the Client on the Effective Date a username and password (“**Access Requirements**”) to enable the Client to access the Portal and use the Services during the operation of this Agreement.
- 2.4 For the avoidance of doubt, the Company accepts no responsibility and/or liability whatsoever in relation the Content (including the accuracy) of the documentation and/or information (including the Client Data and the Documentation) that is uploaded and/or made available on the Portal.
- 2.5 The Company shall use its commercially reasonable endeavours to make the Services available and provide access to the Portal 24 hours a day, seven days a

week, except for during periods where maintenance is being carried out. The Company shall use its reasonable endeavours to give notice in advance of any planned maintenance and keep any disruption caused to a minimum.

- 2.6 The Company will, as part of the Services, provide the Client with technical support in relation to the use of the Portal via telephone and/or email between 9.00 am to 5.30 pm local UK time, each Business Day.

3. USER SUBSCRIPTIONS

- 3.1 Subject to the Client:

- 3.1.1 purchasing the User Subscription in accordance with clause 4.3 and clause 10.1; and
- 3.1.2 complying with the restrictions set out in this clause 2 and the other terms and conditions of this Agreement,

the Company hereby grants to the Client a non-exclusive, non-transferable sub-licence and right to permit the Authorised Users to use the Software and the Services and access the Portal during the Subscription Term solely for the Client's internal business operations and for business use only.

- 3.2 In relation to the Authorised Users, the Client undertakes that:

- 3.2.1 the maximum number of Authorised Users that it authorises to access the Portal and use the Services at the Authorised Location(s) shall not exceed the number of Authorised Users for which it has from time to time purchased licenses under this Agreement (the “**Maximum Authorised Users**”);
- 3.2.2 it will not allow or suffer any User Subscription to be used at any site, premises or location other than the Authorised Location(s);
- 3.2.3 it shall keep the Access Requirements private, confidential and secure from unauthorised use and/or disclosure;
- 3.2.4 it shall maintain a written, up to date list of current Authorised Users and provide such list to the Company within 5 Business Days of the Company's written request at any time or times;
- 3.2.5 it shall permit the Company to audit the Services in order to establish the name(s) and location of the Authorised Users. Such audit may be conducted no more than once per quarter, at the Company's expense, and this right shall be exercised with reasonable prior notice and in such a manner as not substantially to interfere with the Client's normal conduct of business;
- 3.2.6 if any of the audits referred to in clause 3.2.5 reveal that the Access Requirements have been provided to any individual who is not an Authorised User then, without prejudice to the Company's other rights, the Client shall promptly remove access of that individual and immediately confirm the same in writing to the Company; and
- 3.2.7 if any of the audits referred to in clause 3.2.5 reveal that the Client has underpaid Subscription Fees to the Company then, without prejudice to the

Company's other rights, the Client shall pay to the Company an amount equal to such underpayment within 10 Business Days of the date of the relevant audit.

- 3.3 The Client is responsible for conduct and communications in relation to the Authorised Users and for the duration of the provision of the Services. In this regard, the Client expressly agrees to use the Services and access the Portal only for purposes that are legal, proper and related to its business activities.
- 3.4 The Client shall not access, store, post, distribute or transmit any Viruses or any material (including within the Documentation, the Client Data and/or the Content) during the course of its use of the Services that:
 - 3.4.1 is unlawful, inappropriate, harmful, threatening, defamatory, abusive, obscene, infringing, harassing or racially or ethnically offensive;
 - 3.4.2 infringes any Intellectual Property Rights;
 - 3.4.3 facilitates illegal or unauthorised activity;
 - 3.4.4 depicts sexually explicit images;
 - 3.4.5 promotes unlawful violence;
 - 3.4.6 violates legal rights (such as rights of privacy and publicity) of others;
 - 3.4.7 is discriminatory based on sex, age, race, gender, colour, religious belief, sexual orientation, and/or disability;
 - 3.4.8 is otherwise illegal or causes (or might reasonably be expected to cause) damage or injury to any person or property;
 - 3.4.9 promotes any pyramid schemes, chain letters or disruptive commercial messages;
 - 3.4.10 contains any information that the Client knows or reasonably should know, should not be legally distributed in such manner; and/or
 - 3.4.11 impersonates another person or entity, or falsifies or deletes any author attributions, legal or other proper notices or proprietary designations or labels of the origin or source of software or other material.
- 3.5 The Company reserves the right, without liability or prejudice to its other rights, to disable the Client's access to:
 - 3.5.1 any material that the Company (in its absolute discretion) considers to breach the provisions of clause 3.4; and/or
 - 3.5.2 (in the case of persistent or material breach of clause 3.4, as determined by the Company in its absolute discretion) the Services, the Software and the Portal.
- 3.6 The Client acknowledges and agrees that the Company does not pre-screen, control, edit or endorse the Content and has no obligation to monitor the Content. Instead the

Services enable the Client to access the Content that has been uploaded and made available via the Portal.

3.7 Notwithstanding clause 3.6, the Company may monitor the Content and may delete at any time and at its sole discretion, any Content (or part thereof) if it determines following investigation and in good faith that any Content (or part thereof) does not conform with this Agreement. The Company (or its licensors) will have no liability or responsibility for performance or non-performance of such activities.

3.8 The Client shall not:

3.8.1 except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:

3.8.1.1 and except to the extent expressly permitted under this Agreement, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software, the Services and/or the Portal in any form or media or by any means; or

3.8.1.2 attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software, the Services, and/or the Portal; or

3.8.2 access all or any part of the Software, Services and/or Portal in order to build a product or service which competes with the Software, Services and/or the Portal;

3.8.3 use the Services, Software and/or Portal to provide services to third parties;

3.8.4 license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services, Software and/or the Portal available to any third party except the Authorised Users;

3.8.5 attempt to obtain, or assist third parties in obtaining, access to the Software, Services, and/or Portal, other than as provided under this clause 3;

3.8.6 remove any notices in relation to Intellectual Property Rights within the Portal;

3.8.7 interfere with or disrupt the Services or servers or networks connected to the Portal, or disobey any requirements, procedures, policies or regulations of networks connected to the Services and/or the Portal;

3.8.8 use any robot, spider, site search/retrieval application, or other device to retrieve or index any portion of the Portal or collect information about users for any unauthorised purpose;

3.8.9 submit Content that falsely expresses or implies that such Content is sponsored or endorsed by the Company, S2B and/or any of its third party licensors;

- 3.8.10 apply for user accounts by automated means or under false or fraudulent pretences;
 - 3.8.11 promote or provide instructional information about illegal activities or promote physical harm or injury against the Company and/or any person; and/or
 - 3.8.12 transfer, download and/or attempt to transfer or download any information, data or documentation from the Portal to any location outside of the Portal (whether in electronic or hard copy form), unless expressly authorised in writing by the Company.
- 3.9 The Client shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Portal and, in the event of any such unauthorised access or use, promptly notify the Company of the same.
- 3.10 The rights provided under this clause 3 are granted to the Client only, and shall not be considered granted to any subsidiary or holding company of the Client.

4. ADDITIONAL USER SUBSCRIPTIONS

- 4.1 Subject to clause 4.2 and clause 4.3, the Client may, from time to time during any Subscription Term, purchase Additional User Subscriptions allowing:
- 4.1.1 additional Authorised Users; and/or
 - 4.1.2 allowing access at other locations other than the Authorised Location(s),
- and the Company shall grant access to the Services and the Portal to such additional Authorised Users and/or at additional Authorised Location(s) in accordance with the provisions of this Agreement.
- 4.2 If the Client wishes to purchase Additional User Subscriptions, the Client shall notify the Company in writing. The Company shall evaluate such request for Additional User Subscriptions and respond to the Client with approval or rejection of the request usually by email ("**Additional User Confirmation**").
- 4.3 If the Company approves the Client's request to purchase Additional User Subscriptions the Client shall, within 10 Business Days of the date of the Additional User Confirmation, pay to the Company the first monthly instalment of the Additional User Subscription Fees.

5. CLIENT DATA AND THE CONTENT

- 5.1 The Client shall own all right, title and interest in and to all of the Client Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Client Data and the Content. For the avoidance of doubt this means that the Client (and not the Company) is entirely responsible for the Client Data and the Content.
- 5.2 Under no circumstances will the Company be liable in any way for any Content, including, but not limited to, any errors or omissions in any Content, or for any loss or damage of any kind incurred as a result of the use of any Content. The Client agrees that the Client must evaluate, and bear all risks associated with the use of any

Content, including any reliance on the accuracy, completeness or usefulness of such Content.

5.3 The Client understands that the technical processing and transmission of the Services, including the Content, may involve:

5.3.1 transmissions over various networks; and

5.3.2 changes to conform and adapt to technical requirements of connecting networks or devices.

5.4 In the event of any loss of or damage to the Content, the Client's sole and exclusive remedy shall be for the Company to use reasonable commercial endeavours to restore the lost or damaged Content from the latest back-up of such Content maintained by the Company. The Company shall not be responsible for any loss, destruction, alteration or disclosure of Content caused by any third party (except those third parties sub-contracted by the Company to perform services related to the Content maintenance and back-up).

6. DATA PROTECTION

6.1 The Company shall, in providing the Services, comply with its obligations under the Data Protection Act 1998 and its Privacy and Security Policy relating to the privacy and security of the Client Data available at <http://www.safety2business.com/privacyandsecuritypolicy.html> or such other website address as may be notified to the Client from time to time, as such document may be amended from time to time by the Company.

6.2 If the Company processes any personal data on the Client's behalf when performing its obligations under this Agreement, the parties record their intention that the Client and the Company shall be data controllers and the Company shall also be a data processor and in any such case:

6.2.1 the Client acknowledges and agrees that the personal data may be transferred or stored outside the EEA or the country where the Client and the Authorised Users are located in order to carry out the Services and the Company's other obligations under this Agreement;

6.2.2 the Client shall ensure (and hereby warrants to the Company) that the Client is entitled to transfer the relevant personal data to the Company so that the Company may lawfully use, process and transfer the personal data in accordance with this Agreement on the Client's behalf;

6.2.3 the Client shall ensure that any relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation;

6.2.4 the Company shall process the personal data only in accordance with the terms of this Agreement and any lawful instructions reasonably given by the Client from time to time;

6.2.5 each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage; and

- 6.2.6 the Company shall oblige any third party (to include S2B) to whom it discloses or transfers any such data or products (with the Client's consent) to make an undertaking to the Client in similar terms to the one set out in this clause 6.

7. THIRD PARTY PROVIDERS

The Client acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties (including those of S2B) via third-party websites and that it does so solely at its own risk. The Company makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Client, with any such third party. Any contract entered into and any transaction completed with any third party and/or via any third party website is between the Client and the relevant third party, and not the Company. The Company recommends that the Client refers to the third party's terms and conditions and privacy policy prior to using the relevant third-party website and/or services and/or purchasing their products. The Company does not endorse or approve any third-party website, the content of any of the third-party website, the services or products provided by any third party which are made available via the Services.

8. THE COMPANY'S OBLIGATIONS

- 8.1 The Company undertakes that the Services will be performed with reasonable skill and care.
- 8.2 The undertaking at clause 8.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to the Company's instructions, or modification or alteration of the Services by any party other than the Company or the Company's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, the Company will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Client with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Client's sole and exclusive remedy for any breach of the undertaking set out in clause 8.1. Notwithstanding the foregoing, the Company:
- 8.2.1 does not warrant that the Client's use of the Services and/or access to the Portal will be uninterrupted or error-free; or that the Services and/or Portal, and/or the information obtained by the Client through the Services and/or the Portal will meet the Client's requirements; and
- 8.2.2 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Client acknowledges that the Services and operation of the Portal may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 8.3 The Company (and its licensors) reserve(s) the right to add or remove features to the Portal and/or the Software so as to give (in the opinion of the Company and/or its licensors) a better user experience to the Client. The Company will use its reasonable endeavours to provide advance notice of any major modifications to the Services, the

Software and/or the Portal, which might reasonably be expected materially to affect the Client's user experience.

- 8.4 This Agreement shall not prevent the Company from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.
- 8.5 The Company warrants that it has and will maintain all necessary licences, consents, and permissions reasonably necessary for the performance of its obligations under this Agreement.

9. CLIENT'S OBLIGATIONS

9.1 The Client shall:

9.1.1 provide the Company with:

9.1.1.1 all necessary co-operation in relation to this Agreement; and

9.1.1.2 all necessary access to such information as may be required by the Company,

in order to provide the Services and give the Client access to the Portal, including but not limited to Client Data, security access information and configuration services;

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

9.1.3 carry out all other Client responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in the Client's provision of such assistance as agreed by the parties, the Company may adjust any agreed timetable or delivery schedule as reasonably necessary;

9.1.4 ensure that the Authorised Users use the Services, the Portal and the Content in accordance with the terms and conditions of this Agreement and shall be responsible for any Authorised User's breach of this Agreement;

9.1.5 (save in respect of any licences, consents and/or permissions for which the Company is responsible pursuant to clause 8.5) obtain and shall maintain all necessary licences, consents, and permissions necessary for the Company, its contractors and agents to perform their obligations under this Agreement, including without limitation the Services;

9.1.6 ensure that its network and systems comply with the relevant specifications provided by the Company from time to time; and

9.1.7 be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Company's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Client's network connections or telecommunications links or caused by the internet.

10. CHARGES AND PAYMENT

- 10.1 The Client shall pay the Subscription Fees for the User Subscriptions in accordance with this clause 10 and Schedule 1 (as varied from time to time pursuant to this Agreement).
- 10.2 The Client shall pay the Subscriptions Fees either:
- 10.2.1 in one lump sum payable on the Effective Date; or
- 10.2.2 by way of equal monthly instalments,
- in each case by way of direct debit via the third party payment platform operated by GoCardless.
- 10.3 If payment has not been made by the Client within 10 Business Days after the due date, and without prejudice to any other rights and remedies of the Company:
- 10.3.1 the Company may, without liability to the Client, disable the Access Requirements, account and access to all or part of the Services and the Portal, and the Company shall be under no obligation to provide any or all of the Services while the payment(s) concerned remain unpaid; and
- 10.3.2 interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of the Company's bankers in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 10.4 All amounts and fees stated or referred to in this Agreement:
- 10.4.1 shall be payable in pounds sterling;
- 10.4.2 are, subject to clause 15.4.2, non-cancellable and non-refundable; and
- 10.4.3 are exclusive of value added tax, which shall be added to the amount payable by the Client at the appropriate rate.
- 10.5 If, at any time whilst using the Services, the Client exceeds the Permitted Storage Space, the Company shall charge the Client, and the Client shall pay, the Company's then current Excess Data Storage Charges.
- 10.6 The Company shall be entitled to increase the Subscription Fees, the fees payable in respect of the additional User Subscriptions purchased pursuant to clause 4.3 and/or the Excess Data Storage Charges payable pursuant to clause 10.5 upon not less than 10 Business Days' prior notice to the Client and, in the case of such increase, Schedule 1 shall be deemed to have been amended accordingly.

11. PROPRIETARY RIGHTS

- 11.1 The Client acknowledges and agrees that the Company and/or its licensors own all Intellectual Property Rights in the Software, the Services, and the Portal (the "**Proprietary Information**"). Except as expressly stated herein, this Agreement does not grant the Client any rights to, or in, patents, copyright, database rights, trade

secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Software, the Services and/or the Portal.

- 11.2 The Company confirms that it has all rights in relation to the Software, the Services, and the Portal that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.
- 11.3 The Client may not copy, modify, publish, transmit, distribute, perform, display or sell any of the Proprietary Information.
- 11.4 The Company claims no ownership or control over the Client Data and/or in relation to any Content submitted, posted or displayed by the Client on the Portal. The Client retains all Intellectual Property Rights to the Client Data and/or any Content the Client submits, posts or displays on the Portal and the Client is responsible for protecting those rights, as it considers appropriate.

12. CONFIDENTIALITY

- 12.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's Confidential Information shall not be deemed to include information that:
 - 12.1.1 is or becomes publicly known other than through any act or omission of the receiving party;
 - 12.1.2 was in the other party's lawful possession before the disclosure;
 - 12.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
 - 12.1.4 is independently developed by the receiving party, which independent development can be shown by written evidence; or
 - 12.1.5 is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 12.2 Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Agreement.
- 12.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.
- 12.4 The Client acknowledges that details of the Services, the Portal and the Software and the results of any performance tests of the Services, the Portal and the Software constitute the Company's Confidential Information.
- 12.5 The Company acknowledges that the Client Data and Documentation is the Confidential Information of the Client.
- 12.6 The Company shall only disclose the Client's Confidential Information to a third party and/or allow access to a third party to the Client's secure area of the Portal with the

Client's express written consent. In the event that the Client authorises such disclosure and/or access to a third party then in such circumstances the Company shall not be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any such third party.

- 12.7 The Client shall not make, or permit any person to make, any public announcement concerning this Agreement without the prior written consent of the Company (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 12.8 The provisions of this clause 12 shall survive termination of this Agreement, however arising.

13. COMPLIANCE WITH LAWS AND POLICIES

- 13.1 In performing its obligations under this Agreement, the Client represents and warrants that:
- 13.1.1 it, the Authorised Users, and any person associated with the Client, will comply with and enforce all applicable laws, statutes, regulations, and codes from time to time in force including (but not limited to) the Bribery Act 2010, the Proceeds of Crime Act 2002, the Theft Act 1968, the Fraud Act 2006, the Companies Act 2006, the Data Protection Act 1998 and the Equality Act 2010 ("**Relevant Requirements**");
 - 13.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK; and
 - 13.1.3 have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, and will enforce them where appropriate.
- 13.2 For the purpose of this clause 13, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purpose of this clause 13, a person associated with the Client includes but is not limited to the Authorised Users, any agent, employee, delegate or subcontractor of the Client.

14. INDEMNITY

- 14.1 The Client shall defend, indemnify and hold harmless the Company (and its licensors) against all and any claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Client's use of the Services, the Software and/or the Portal, provided that:
- 14.1.1 the Client is given prompt notice of any such claim;

- 14.1.2 the Company provides reasonable co-operation to the Client in the defence and settlement of such claim, at the Client's expense; and
- 14.1.3 the Client is given sole authority to defend or settle the claim.
- 14.2 Subject to clauses 14.4 and 14.6, the Company shall defend the Client, its officers, directors and employees against any claim that the Software, the Services or the Portal infringes any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Client for any amounts awarded against the Client in judgment or settlement of such claims, provided that:
 - 14.2.1 the Company is given prompt notice of any such claim;
 - 14.2.2 the Client provides reasonable co-operation to the Company in the defence and settlement of such claim, at the Company's expense; and
 - 14.2.3 the Company is given sole authority to defend or settle the claim.
- 14.3 In the defence or settlement of any claim, the Company may procure the right for the Client to continue using the Services, replace or modify the Services, Software and/or Portal so that they become non-infringing or, if such remedies are not reasonably available, terminate this Agreement on 2 Business Days' notice to the Client without any additional liability or obligation to pay compensation, damages or other additional costs to the Client.
- 14.4 In no event shall the Company, its employees, agents and sub-contractors be liable to the Client to the extent that the alleged infringement is based on:
 - 14.4.1 a modification of the Software, Services and/or Portal by anyone other than the Company; or
 - 14.4.2 the Client's use of the Software, Services and/or Portal in a manner contrary to the provisions of this Agreement and/or the instructions given to the Client by the Company; or
 - 14.4.3 the Client's use of the Software, Services and/or Portal after notice of the alleged or actual infringement from the Company or any appropriate authority.
- 14.5 The Client acknowledges and accepts that third-party software is deemed to be incorporated within the Software and use of the third-party software shall be subject to any relevant licence agreement (the "**Third-Party Additional Terms**").
- 14.6 The Client shall indemnify and hold the Company harmless against any loss and/or damage which the Company may suffer or incur as a result of the Client's and/or any Authorised Users' breach of the Third-Party Additional Terms howsoever arising.
- 14.7 The Company may treat the Client's breach of the Third-Party Additional Terms as a breach of this Agreement.
- 14.8 This clause 14 states the Client's sole and exclusive rights and remedies, and the Company 's (including the Company's employees', agents' and sub-contractors')

entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

15. LIMITATION OF LIABILITY

15.1 This clause 15 sets out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Client:

15.1.1 arising under or in connection with this Agreement;

15.1.2 in respect of any use made by the Client of the Software, Services and/or the Portal or any part of them; and

15.1.3 in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

15.2 Except as expressly and specifically provided in this Agreement:

15.2.1 the Client assumes sole responsibility for results, information and timeframes obtained from the use of the Software, Services and/or the Portal by the Client, and for conclusions drawn from such use. The Company shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to the Company by the Client in connection with the Services, or any actions taken by the Company at the Client's direction and/or in reliance on information provided by the Client;

15.2.2 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement; and

15.2.3 the Software, Services and access to the Portal are provided to the Client on an "as is" basis.

15.3 Nothing in this Agreement excludes the liability of the Company:

15.3.1 for death or personal injury caused by the Company's negligence; or

15.3.2 for fraud or fraudulent misrepresentation.

15.4 Subject to clause 15.2 and clause 15.3:

15.4.1 the Company shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement; and

15.4.2 the Company's total aggregate liability in contract (including in respect of the indemnity at clause 14.2), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be

limited to the total Subscription Fees paid for the User Subscriptions during the 12 months immediately preceding the date on which the claim arose.

16. TERM AND TERMINATION

16.1 This Agreement shall, unless otherwise terminated as provided in this clause 16, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, this Agreement shall be automatically renewed for successive periods of 12 months (each a "**Renewal Period**"), unless:

16.1.1 either party notifies the other party of termination, in writing, at least 6 months before the end of any Renewal Period, in which case this Agreement shall terminate upon the expiry of the applicable Renewal Period; or

16.1.2 otherwise terminated in accordance with the provisions of this Agreement,

and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the "**Subscription Term**".

16.2 Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:

16.2.1 the other party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 10 Business Days after being notified in writing to make such payment;

16.2.2 the other party commits a material breach of any other term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 10 Business Days after being notified in writing to do so;

16.2.3 the other party repeatedly breaches any of the terms of this Agreement in such a manner as reasonably to justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;

16.2.4 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 ;

16.2.5 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

16.2.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

- 16.2.7 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;
- 16.2.8 the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
- 16.2.9 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- 16.2.10 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- 16.2.11 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 16.2.4 to clause 16.2.10 (inclusive);
or
- 16.2.12 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

17. CONSEQUENCES OF TERMINATION

- 17.1 On termination of this Agreement for any reason:
 - 17.1.1 all licences granted under this Agreement shall immediately terminate on the Termination Date;
 - 17.1.2 the Client shall within 5 Business Days of the Termination Date return and make no further use of any equipment, property, documentation and other items (and all copies of them) belonging to the Company (if applicable);
 - 17.1.3 provided that the Client has, at the Termination Date, paid all fees and charges outstanding at and resulting from termination (howsoever caused), the Company will allow the Client to withdraw any Content from the Portal for up to 5 Business Days from (and including) the Termination Date (the "**Content Retrieval Deadline**");
 - 17.1.4 upon expiry of the Content Retrieval Deadline:
 - 17.1.4.1 the Client will have no right to access the Portal and/or the Content and/or use the Services;
 - 17.1.4.2 the Company shall disable the Access Requirements; and
 - 17.1.4.3 the Company may destroy or otherwise dispose of the Content; and
 - 17.1.5 any rights, remedies, obligations or liabilities of the parties that have accrued up to the Termination Date, including the right to claim damages in respect of any breach of this Agreement which existed at or before the Termination Date shall not be affected or prejudiced.

18. FORCE MAJEURE

The Company shall have no liability to the Client under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, internet failures, computer equipment failures, electrical power failures, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Company or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, insurrection, shortage of labour or materials, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, explosion, governmental actions, fluctuations in heat, light or air conditioning, or default of suppliers or sub-contractors or other third parties, provided that the Client is notified of such an event and its expected duration.

19. CONFLICT

If there is an inconsistency between any of the provisions in the main body of this Agreement and the Schedule, the provisions in the main body of this Agreement shall prevail.

20. VARIATION

20.1 The Company may revise the terms of this Agreement from time to time to reflect then prevailing circumstances including (by way of example only):

20.1.1 changes in relevant laws and/or regulatory requirements;

20.1.2 changes to the Company's business; and/or

20.1.3 technical changes in relation to the Software and/or the Portal.

20.2 If the Company has to revise the terms of this Agreement, the Company will use its reasonable endeavours to bring the changes to the attention of the Client.

20.3 The Client should, however, regularly check the terms of use when it accesses the Portal to ensure it understands the terms that apply at any particular time during its use of the Services.

21. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

22. RIGHTS AND REMEDIES

Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

23. SEVERANCE

- 23.1 If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 23.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

24. ENTIRE AGREEMENT

- 24.1 This Agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.
- 24.2 Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.
- 24.3 No provision of this Agreement shall exclude or limit the liability of a party in respect of fraud.

25. ASSIGNMENT

- 25.1 The Client shall not, without the prior written consent of the Company, assign, novate the benefit or the burden, transfer, charge, sub-contract, sub-licence or deal in any other manner with all or any of its rights or obligations (in whole or in part) under this Agreement.
- 25.2 The Company may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

26. NO PARTNERSHIP OR AGENCY

Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

27. THIRD PARTY RIGHTS

This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

28. NOTICES

- 28.1 The Client agrees to notify the Company in writing within 5 Business Days of any change of address, telephone number, email address and any other contact details.

It is the Client's responsibility to ensure that the Company has been given its up-to-date contact information.

- 28.2 Any notice or other communication given to a party under or in connection with this Agreement shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause 28, and shall be delivered personally, or sent by pre-paid first class post, or email.
- 28.3 A notice or other communication shall be deemed to have been received:
- 28.3.1 if delivered personally, when left at the address referred to in clause 28.2;
 - 28.3.2 if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
 - 28.3.3 if sent by email, one Business Day after transmission (unless, in the case of service on the Company, an automated delivery failure receipt has been received by the Client, in which case service upon the Company shall not be effective).
- 28.4 The Company may provide the Client with notices regarding the Services and this Agreement by email or links added to the Portal.
- 28.5 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

29. GOVERNING LAW

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

30. JURISDICTION

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

Schedule 1 Subscription Fees

1. SUBSCRIPTION FEES

- A. The Subscription Fees shall amount to a total of £250 (plus VAT) per annum payable monthly by GoCardless DDM based on one User Subscription for one site. Additional users are charged as below. There is no additional Subscription Fee for up to four sites but additional User Licences are chargeable of £5 (plus VAT) per month. At least one User Licence is required for each site.
- B. The Subscription Fees shall amount to a total of £500 (plus VAT) per annum payable monthly by GoCardless DDM for five sites increasing to eight sites. Where User Subscriptions increase the same charges will apply.
- C. The Subscription Fees shall amount to a total of £750 (plus VAT) per annum payable monthly by GoCardless DDM for nine sites increasing to twelve sites. Where User Subscriptions increase the same charges will apply.
- D. The Subscription Fees per annum payable monthly by GoCardless DDM for over twelve sites are negotiable.

2. ADDITIONAL USER SUBSCRIPTION FEES

Additional User Subscriptions may be purchased by the Client in accordance with clause 4 at £5 (plus VAT) per month per Additional User Subscription.

3. EXCESS DATA STORAGE CHARGES

The Company's Excess Data Storage Charges current as at the Effective Date are £1.00 per month for each 1 MB unit of additional storage.

4. ONBOARDING FEES AND TRAINING CHARGES

- A. The Onboarding Fees and Training Charges shall amount to a total of £350 (plus VAT) per annum payable immediately and upfront for one site increasing to four sites and up to five User Licenses (persons for training).
- B. The Onboarding Fees and Training Charges shall amount to a total of £700 (plus VAT) per annum payable immediately and upfront for five sites increasing to eight sites and up to ten User Licenses (persons for training).
- C. The Onboarding Fees and Training Charges shall amount to a total of £1000 (plus VAT) per annum payable immediately and upfront for nine sites increasing to twelve sites and up to fifteen User Licenses (persons for training).