

Client Engager Terms and Conditions

- (A) This agreement is made on the Effective Date between Client Engager Online Limited ("Client Engager") and you, the party, which upon accepting these terms and conditions and making the agreed subscriptions will be entitled to use Client Engager on-line Client sign up system. ("The Client")
- (B) Client Engager has developed certain software applications and platforms which it makes available to subscribers via the internet on a pay-per-use basis for the purpose of obtaining execution of letters of engagement with clients for accountancy based services
- (C) The Client wishes to use Client Engager's service in its business operations.
- (D) Client Engager has agreed to provide and the Client has agreed to take and pay for Client Engager's service subject to the terms and conditions of this agreement.
- **(E) Please read these terms and conditions before subscribing for Client Engager. By subscribing to Client Engager you agree to and accept these terms and conditions.**

AGREED TERMS

• 1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in this clause apply in this agreement.
- 1.2 **The Act:** The Data Protection Act 2018 including the UK GDPR.

Authorised Users: those employees, agents and independent contractors of the Client who are authorised by the Client to use the Services and the Documentation.

Business Day: any day which is not a Saturday, Sunday or public holiday in the UK.

Change of Control: the direct or indirect acquisition of either the majority of the voting stock, or of all, or substantially all, of the assets, of a party by another entity in a single transaction or a series of transactions.

Confidential Information: information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 11.5.

Client Data: the data inputted by the Client, Authorised Users, or Client Engager on the Client's behalf for the purpose of using the Services or facilitating the Client's use of the Services.

Documentation: the documents and policies made available to the Client by Client Engager online via <https://engager.app> or such other web address notified by Client Engager to the Client from time to time which sets out a description of the Services and the user instructions for the Services.

Effective Date: the date when the first subscription is received by Client Engager.

Employees: means full or part time employees of the Client but excludes independent contractors or agents.

Initial Subscription Term: the period of 1 (one) month commencing on and including the Effective Date.

Normal Business Hours: 9.00 am to 5.00 pm local UK time, each Business Day.

Renewal Period: the period described in clause 15.1.

Services: the subscription services provided by Client Engager to the Client under this agreement via <https://engager.app> or any other website notified to the Client by Client Engager from time to time, as more particularly described in the Documentation.

Software: the online software applications provided by Client Engager as part of the Services.

Subscription Fees: the subscription fees payable by the Client to Client Engager for the User Subscriptions, shall be the amount of the monthly payment selected by the Client in the "Subscription" section of Client Engager as amended from time to time at the sole discretion of Client Engager.

Subscription Term: has the meaning given in clause 15.1 (being the Initial Subscription Term together with any subsequent Renewal Periods).

User Subscriptions: the user subscriptions purchased by the Client pursuant to clause 9.1 which entitle Authorised Users to access and use the Services and the Documentation in accordance with this agreement.

Virus: anything 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.

- 1.3 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.4 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.
- 1.5 A reference to a Client shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Words in the singular shall include the plural and vice versa.
- 1.7 A reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.9 A reference to writing or written includes faxes but not e-mail.
- 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. USER SUBSCRIPTIONS**

- 2.1 Subject to the Client purchasing the User Subscriptions in accordance with clause 9.1, the restrictions set out in this clause 2 and the other terms and conditions of this agreement, Client Engager hereby grants to the Client a non-exclusive, non-transferable right to permit the Authorised Users to use the Services and the Documentation during the Subscription Term solely for the Client's internal business operations.

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

(a) Each Authorised User shall keep a secure password for his use of the Services and Documentation. Client Engager will provide a multi-factor authentication tool to help the Client protect their data access. No responsibility is taken for the Client not deploying the tool nor its misuse nor for the Client setting a poor password..

(b) it shall permit Client Engager to audit the Services in order to establish the name and password of each Authorised User. Such audit may be conducted no more than once per quarter, at Client Engager's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Client's normal conduct of business;

(c) if any of the audits referred to in clause 2.2(b) reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to Client Engager's other rights, the Client shall promptly disable such passwords and Client Engager shall not issue any new passwords to any such individual; and

(d) if any of the audits referred to in clause 2.2(b) reveal that the Client has underpaid Subscription Fees to Client Engager, then without prejudice to Client Engager's other rights, the Client shall pay to Client Engager an amount equal to such underpayment as calculated within 10 Business Days of the date of the relevant audit.

- 2.3 The Client shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:
 - (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - (b) facilitates illegal activity;
 - (c) depicts sexually explicit images;
 - (d) promotes unlawful violence;
 - (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
 - (f) in a manner that is otherwise illegal or causes damage or injury to any person or property; and Client Engager reserves the right, without liability or prejudice to its other rights to the Client, to disable the Client's access to any material that breaches the provisions of this clause.
- 2.4 The Client shall not:
 - (a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:
 - (i) 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 and/or Documentation (as applicable) in any form or media or by any means; or
 - (ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
 - (b) access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or
 - (c) use the Services and/or Documentation to provide services to third parties; or
 - (d) subject to clause 20.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users, or
 - (e) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 2; and
- 2.5 The Client shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify Client Engager.
- 2.6 The rights provided under this clause 2 are granted to the Client only, and shall not be considered granted to any subsidiary or holding company of the Client.

• **3. FREE TRIALS**

- **NO CHARGE WILL BE MADE FOR THE USE OF THE SERVICES DURING A "FREE TRIAL" PERIOD. THE CLIENT IS NOT HOWEVER ENTITLED TO BENEFIT FROM MORE THAN ONE FREE TRIAL (if any).**

• **4. SERVICES**

- 4.1 Client Engager shall, during the Subscription Term, provide the Services and make available the Documentation to the Client on and subject to the terms of this agreement.

- 4.2 Client Engager shall use its commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:
 - (a) planned maintenance carried out during the maintenance window of 10.00 pm to 6.00 am UK time; and
 - (b) unscheduled maintenance performed outside Normal Business Hours, provided that Client Engager has used reasonable endeavours to give the Client at least 6 Normal Business Hours' notice in advance.
 - (c) urgent unplanned maintenance.
- 4.3 Client Engager will, as part of the Services and at no additional cost to the Client, provide the Client with Client Engager's standard Client support services during Normal Business Hours in accordance with Client Engager's Support Services Policy in effect at the time that the Services are provided. Client Engager may amend the Support Services Policy in its sole and absolute discretion from time to time.

5. CLIENT DATA

- 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.
- 5.2 Client Engager shall follow its archiving procedures for Client Data as set out in its back-up policy as such document may be amended by Client Engager in its sole discretion from time to time. In the event of any loss or damage to Client Data, the Client's sole and exclusive remedy shall be for Client Engager to use reasonable commercial endeavours to restore the lost or damaged Client Data from the latest back-up of such Client Data maintained by Client Engager in accordance with the archiving procedure described in its back up policy. Client Engager shall not be responsible for any loss, destruction, alteration or disclosure of Client Data caused by any third party (except those third parties sub-contracted by Client Engager to perform services related to Client Data maintenance and back-up).
- 5.3 Client Engager shall, in providing the Services, comply with its Privacy and Security Policy relating to the privacy and security of the Client Data as such document may be amended from time to time by Client Engager in its sole discretion.
- 5.4 If Client Engager processes any personal data on the Client's behalf when performing its obligations under this agreement, the parties record their intention that the Client shall be the data controller and Client Engager shall be a data processor and in any such case:
 - (a) the Client acknowledges and agrees that the personal data may be transferred or stored outside the UK and/or EEA or the country where the Client and the Authorised Users are located in order to carry out the Services and Client Engager's other obligations under this agreement;
 - (b) the Client shall ensure that the Client is entitled to transfer the relevant personal data to Client Engager so that Client Engager may lawfully use, process and transfer the personal data in accordance with this agreement on the Client's behalf;
 - (c) the Client shall ensure that the 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;
 - (d) 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.

6. 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 via third-party websites and that it does so solely at its own risk. Client Engager 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 via any third-party website is between the Client and the relevant third party, and not Client Engager. Client Engager recommends that the Client refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Client Engager does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

• **7. CLIENT ENGAGER'S OBLIGATIONS**

- 7.1 Client Engager undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.
- 7.2 The undertaking at clause 7.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Client Engager's instructions, or modification or alteration of the Services by any party other than Client Engager or Client Engager's duly authorised contractors or agents. If the Services do not conform to the foregoing undertaking, Client Engager 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 7.1. Notwithstanding the foregoing, Client Engager:

(a) does not warrant that the Client's use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained by the Client through the Services will meet the Client's requirements; and

(b) 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 Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

- 7.3 This agreement shall not prevent Client Engager 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.
- 7.4 Client Engager warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this agreement.

• **8. CLIENT'S OBLIGATIONS**

- The Client shall:

(a) provide Client Engager with:

(i) all necessary co-operation in relation to this agreement; and

(ii) all necessary access to such information as may be required by Client Engager;

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

(b) comply with all applicable laws and regulations with respect to its activities under this agreement;

(c) 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, Client Engager may adjust any agreed timetable or delivery schedule as reasonably necessary;

(d) ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of this agreement and shall be responsible for any Authorised User's breach of this agreement;

(e) obtain and shall maintain all necessary licences, consents, and permissions necessary for Client Engager, its contractors and agents to perform their obligations under this agreement, including without limitation the Services;

(f) ensure that its network and systems comply with the relevant specifications provided by Client Engager from time to time; and

(g) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Client Engager'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.

• **9. CHARGES AND PAYMENT**

• 9.1 The Client shall pay the Subscription Fees to Client Engager for the User Subscriptions in accordance with this clause 9 and for the subscription term. The Client may purchase text capacity online for alerting potential clients of the Client regarding their letters of engagement, important dates, other alerts or marketing as selected by the Client shall be invoiced monthly in arrears and paid promptly. Invoices will be provided within 28 days of purchase.

• 9.2 The Client shall commence payment of the monthly subscription fee on the Effective Date and thereafter on the same date each month (the due date) or no later than the next Business Day thereafter if such date falls on a non-Business Day. If Client enables automatic subscription renewal, the payment will be taken monthly from the credit card provided to purchase the initial subscription. Where a card expires the Client will have 7 days to replace the card details after which the account access will be frozen for a further 7 days then all data will be removed from the system.

• 9.3 The Client shall continue to pay the Subscription Fee unless and until the agreement is terminated in accordance with clause 13.

• 9.4 The subscription fee for the Services shall be the amount set out on the website when the Client subscribes.

• 9.5 If any payment is not made on the due date the Client shall have 7 days to make the payment after which the Client's password and access shall be disabled and the Client will have a further 7 days to make payment. If payment is made in this period then the Renewal Period shall be shortened by the number of days in the first 7 day period for which payment was outstanding.

• 9.6 If Client Engager has not received any payment within 14 days after the due date, and without prejudice to any other rights and remedies of Client Engager:

(a) Client Engager may, without liability to the Client, permanently disable the Client's password, account and access to all or part of the Services and Client Engager shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and

(b) interest shall accrue on such due amounts at an annual rate equal to 3% over the then current base lending rate of Client Engager's bankers in the UK at the date the relevant invoice was issued, commencing on the due date and continuing until fully paid, whether before or after judgment.

• 9.7 All amounts and fees stated or referred to in this agreement:

(a) shall be payable in pounds sterling;

(b) are, subject to clause 14.4(b), non-cancellable and non-refundable;

(c) are exclusive of value added tax, which shall be added to Client Engager's invoice(s) at the appropriate rate.

• 9.8 Client Engager shall be entitled to increase the Subscription Fees, at the start of each Renewal Period upon 60 days' prior notice to the Client and the agreement shall be deemed to have been amended accordingly.

• **10. PROPRIETARY RIGHTS**

• 10.1 The Client acknowledges and agrees that Client Engager and/or its licensors own all intellectual property rights in the Services and the Documentation. Except as expressly stated herein, this agreement does not grant the Client any rights to, or in, patents, copyrights, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Documentation.

- 10.2 Client Engager confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this agreement. We use some Open Source software. A complete list is available in "Info" section of web application Settings.

• **11. CONFIDENTIALITY**

- 11.1 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:

(a) is or becomes publicly known other than through any act or omission of the receiving party;

(b) was in the other party's lawful possession before the disclosure;

(c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure;

(d) is independently developed by the receiving party, which independent development can be shown by written evidence; or

(e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

- 11.2 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.
- 11.3 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.
- 11.4 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 11.5 The Client acknowledges that details of the Services, and the results of any performance tests of the Services, constitute Client Engager's Confidential Information.
- 11.6 Client Engager acknowledges that the Client Data is the Confidential Information of the Client.
- 11.7 This clause 11 shall survive termination of this agreement, however arising.

• **12. INDEMNITY**

- The Client shall defend, indemnify and hold harmless Client Engager against 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 and/or Documentation.

• **13. CYBER LIABILITY**

- Client Engager is not liable to the Client or any of their clients for any loss or corruption of any data on the Client Engager system where the loss or corruption is due to the act or omission of the Client or any other party using the Services. Client Engager will use its reasonable commercial endeavours to have systems to protect the data on its systems and to be able to restore such data, but the Client is expected to download and hold its own local copies of all Letters of Engagement it issues and other data put onto the Client Engager system including, but not limited to, alert dates, filing dates, reminder dates, UTR and NI numbers and other client related data. The Client is to take reasonable steps to ensure its own systems are kept clear and free of viruses and other infections that may affect Client Engager and to hold cyber liability insurances in the amount of no less than £2 million.

• **14. LIMITATION OF LIABILITY**

- 14.1 Subject to clause 13 this clause 14 sets out the entire financial liability of Client Engager (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Client:

(a) arising under or in connection with this agreement;

(b) in respect of any use made by the Client of the Services and Documentation or any part of them; and

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

- 14.2 Except as expressly and specifically provided in this agreement:

(a) the Client assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Client, and for conclusions drawn from such use. Client Engager shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Client Engager by the Client in connection with the Services and the Documentation, or any actions taken by Client Engager at the Client's direction;

(b) 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

(c) the Services and the Documentation are provided to the Client on an "as is" basis.

- 14.3 Nothing in this agreement excludes the liability of Client Engager:

(a) for death or personal injury caused by Client Engager's negligence; or

(b) for fraud or fraudulent misrepresentation.

- 14.4 Subject to clause 13, 14.2 and clause 14.3:

(a) Client Engager 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

(b) Subject to Clause 13 Client Engager's total aggregate liability in contract, 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.

• 15. TERM AND TERMINATION

- 15.1 This agreement shall, unless otherwise terminated as provided in this clause 15, 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 1 (one) month (each a **Renewal Period**) unless:

(a) either party notifies the other party of termination, in writing, at least 30 days before the end of the Initial Subscription Term or any Renewal Period, in which case this agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period. The Client may achieve this by simply turning off the auto-renew facility on their account in which case the access will cease at then end of the last month for which payment has been made; or

(b) 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**.

- 15.2 Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate this agreement without liability to the other if:

(a) the other party commits a material breach of any of the terms of this agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or

(b) an order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to the other party; or

(c) an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or

(d) a receiver is appointed of any of the other party's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets; or

(e) the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or

(f) the other party ceases, or threatens to cease, to trade; or

(g) there is a change of control of the other party within the meaning of section 1124 of the Corporation Tax Act 2010; or

(h) the other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.

- 15.3 On termination of this agreement for any reason:

(a) all licences granted under this agreement shall immediately terminate;

(b) each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;

(c) Client Engager may destroy or otherwise dispose of any of the Client Data in its possession unless Client Engager receives, no later than ten days after the effective date of the termination of this agreement, a written request for the delivery to the Client of the then most recent back-up of the Client Data. Client Engager shall use reasonable commercial endeavours to deliver the back-up to the Client within 30 days of its receipt of such a written request, provided that the Client has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Client shall pay all reasonable expenses incurred by Client Engager in returning or disposing of Client Data; and

(d) the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

- **16. FORCE MAJEURE**

- Client Engager 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, strikes, lock-outs or other industrial disputes (whether involving the workforce of Client Engager or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of Client Engagers or sub-contractors, provided that the Client is notified of such an event and its expected duration.

- **17. WAIVER**

- 17.1 A waiver of any right under this agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given.
- 17.2 Unless specifically provided otherwise, rights arising under this agreement are cumulative and do not exclude rights provided by law.

- **18. SEVERANCE**

- 18.1 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.

- 18.2 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.

• **19. ENTIRE AGREEMENT**

- 19.1 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.
- 19.2 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.

• **20. ASSIGNMENT**

- 20.1 The Client shall not, without the prior written consent of Client Engager, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.
- 20.2 Client Engager 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.

• **21. 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).

• **22. 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.

• **23. NOTICES**

- 23.1 Any notice required to be given under this agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this agreement, or such other address as may have been notified by that party for such purposes, or sent by fax to the other party's fax number as set out in this agreement.
- 23.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

• **24 LICENCE AND CONDITIONS OF USE OF Client Engager LOGO**

- **The Client Engager Logo ("the Logo") is a registered Trade Mark in the UK and other selected marketing territories ("the Territories"). Use of the Logo is restricted to current subscribing members to the Client Engager website as recognised in these terms and conditions.**
- 24.1 Client Engager Online Ltd grants to the Client a non-exclusive licence to use the Logo in connection with its lawful business activities to recognise the fact that it is a current subscribing Client of Client Engager. This Licence shall expire upon suspension or termination of such recognition.

- 24.2 The Licence is personal to the Client which may neither assign it nor grant any sub licences of the rights granted to it.
- 24.3 The following conditions shall apply to the use of the Logo. Client Engager reserves the right to amend or update the following conditions from time to time at its absolute discretion.

1. You may display the Logo on your advertising printed and on line material. The Logo may not be included within or as part of your trade or business name, domain name, product or service name, logo, trade dress, design, slogan or other trademarks.

2. Except for size, you may not alter the Logo in any manner, including proportions, colours elements, etc., or animate, morph, or otherwise distort its perspective or two dimensional appearance.

3. Client Engager can provide you with electronic artwork for the Logo.

4. The full colour, positive, horizontal version of the Logo is the only acceptable treatment as shown below. Ordinarily the Logo must not appear more than once on a single sheet or webpage as duplication can dilute the strength and impact.



5. Your trading/company name, trademark or logo must appear in any materials where the Logo is used.

6. The materials and websites on which the Logo is used must comply with relevant legislation including the British Codes of Advertising and sales promotion and must not contain statements or images which are untrue, misleading objectionable, tasteless, obscene, offensive or disparaging of Client Engager.

7. The Logo must stand alone. The Logo must be given a reasonable amount of clear space around the Logo separating it from any other logo, such as type, photography, borders and edges.

8. You agree at your own cost and expense to correct any misuses of the Logo upon notice from Client Engager

9. If permission to use the Logo is withdrawn it shall take effect immediately and the Logo shall be removed from any website and stocks of materials bearing the logo at the Client's expense.

• **25 GOVERNING LAW AND JURISDICTION**

- 25.1 This agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by, and construed in accordance with, the law of England.
- 23.4 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

• **26 SUBSCRIPTION FEES AND SUBSCRIPTION TERM**

- The Subscription Fees shall amount to the monthly payment selected by the Client in the pricing link on the Client Engager homepage as amended from time to time at the sole discretion of Client Engager.