

Standard Terms and Conditions – V-Series**Definitions**

If the following words are utilised in these Standard Terms and Conditions they shall have these meanings ascribed to them respectively as follows:

“Agreement” means these Standard Terms and Conditions.

“Authorised User” means a Customer employee that the Customer has authorised to access and use the Subscription Services and who is trained on the Customer’s obligations under the terms and conditions of this Agreement with respect to such access and use of the Subscription Services.

“Back Up Copy(ies)” mean(s) a copy(ies) made of the Software as delivered (excluding configuration), for archive and/or back-up purposes.

“BBAN” means a Basic Bank Account Number comprising as a minimum national account number and bank/branch identifier up to thirty (30) alphanumeric characters in length.

“Company” means Bottomline Technologies Limited whose registered offices are at 115 Chatham Street, Reading RG1 7JX.

“Credit(s)” means a unit(s) used in performing Validation, International Validation and/or Verification Searches, as specified in clause 7.5.

“Customer” means the legal entity (i.e. registered company, or legally constituted public body or financial institution) specified in the Order Agreement.

“Customer Group Company(ies)” means any company belonging to the same group of companies to which the Customer belongs, where such company controls, is controlled by, or is under common control with the Customer (where “control” means having more than fifty percent (50%) voting securities in a company). For the avoidance of doubt joint ventures, partnerships and any other third parties are specifically excluded under this definition

“Data” means validation data provided as part of Support.

“End User Agreement (EUA)” collectively means the Order Agreement (including subsequent Order Agreements), this Agreement (including the Professional Services Agreement and Software Support Agreement referenced in clause 9).

“Guest Operating System” means instances of third-party operating systems licensed by Customer and installed in a Virtual Machine (or otherwise emulated) or hardware system(s) hosting the Software. Virtualisation technology may not be used to circumvent other licensing terms and conditions and related restrictions.

“IBAN” means an International Bank Account Number comprising a BBAN, a two (2) letter country code and two (2) numeric check digits.

“Initial Term” means a period of three (3) years commencing on date of issue of a Subscription Service Key to the Customer.

“Intellectual Property Rights” means proprietary interest, patent rights, copyrights, trademark rights, logos, service mark rights, trade secret rights, know-how, and other similar proprietary rights of any type.

“International Validation” means a single Search via a Software product and/or Subscription Service using either: (i) one (1) Credit to confirm that a single IBAN has the correct structure and format; or (ii) four (4) Credits to:

- a) confirm that a single IBAN has the correct structure and format; and that the national account number and branch identifier combination contained therein should exist; or
- b) confirm that a single BBAN and country code combination has the correct structure and format; and convert the BBAN to an IBAN; or
- c) confirm that a single national country code, account number and bank/branch identifier combination should exist; and convert to an IBAN.

“Non-Human Devices” means any device(s) (including but not limited to: virtual PCs, build servers and unattended PCs performing batch jobs) that utilise the Software without interaction. For the avoidance of doubt such Non-Human Devices shall be considered Named or Concurrent Users as applicable.

“Order Agreement” means the document which specifies the Software, Subscription Service, Professional Services and/or related Support or other service being acquired by the Customer pursuant to this Agreement.

“Professional Services” means those services including but not limited to consultancy, implementation and training, supplied under this EUA.

“Search” means a request for data for the purposes of Validation, International Validation and/or Verification;

“Server” means a single physical computer of a type that meets the specifications as set forth in the applicable product data sheets or computer hardware/Software systems compatibility guides published by the Company. Multiple computers that share processing power or operate in a networked configuration as a single logical computer, such as a “server farm” or similar arrangement, constitute multiple separate Servers for the purpose of this Agreement. A Virtual Machine or Guest Operating System shall be deemed to be a Server.

“Software” means the software product and/or, modules providing Validation and/or International Validation specified in an Order Agreement and licensed under this Agreement, including, but not limited to, any related application programming interfaces, associated media, printed materials, online or electronic documentation; and any updates and maintenance releases thereto.

“Software Licence Key” means, where applicable, a serial number or other unique identifier issued by the Company to activate the Software.

“Subscription Service(s)” means the online subscription based service(s) specified in an Order Agreement, which provide an annual specified quantity of Credits for use by the Customer during each twelve (12) month period for its internal day to day business purposes, for Verification and/or Validation and/or International Validation.

“Subscription Service Key” means an internet address and unique code provided to the Customer to enable access to Subscription Service.

“Support” means the mandatory annual purchase of the provision of remote consultation and advice by qualified technical personnel and the provision of any applicable Software error corrections and releases; and Data, in accordance with a Software Support Agreement pursuant to this Agreement, such support being a requirement of any software licence granted.

“Validation” means a single Search, via a Subscription Service using one (1) Credit, or via a Software product to confirm that a single United Kingdom bank account and sort code combination and related bank branch should exist.

"Verification" means a single Search via a Software product and/or Subscription Service using six (6) Credits to confirm that a single United Kingdom bank account and sort code combination definitely exists, is open, matches the account holder's name, a single address and date of birth and belongs to a living person.

"Virtual Machine" means an instance of a Guest Operating System and any application programs installed thereon, running on a computer on which the Software is installed, or suspended to disk or any other storage media accessible by the computing device. Virtualisation technology may not be used to circumvent other licensing terms and conditions and related restrictions.

1. General

This EUA shall apply to the Customer's purchase of Software licences, Subscription Services and related Support, and/or Professional Services or other services from the Company. In the event of a conflict between this Agreement and any licence agreement supplied with the Software, then this Agreement shall take precedence and shall apply to the exclusion of all oral representations and all other terms and conditions printed on any purchase order or other document(s) prepared by Customer irrespective of their date. The parties agree that they have not relied upon any other representations, terms or conditions in entering into this Agreement. This EUA states the entire agreement between the parties on this subject and supersedes all prior negotiations, understandings and agreements between the parties concerning the subject matter. No amendment or modification of this Agreement or the EUA shall be made except in writing and signed by an authorised signatory of each party.

2. Prices

- 2.1. All prices are exclusive of value added tax and any other applicable taxes or duty. Charges shall be made for any taxes, duties or levies which the Company is required by law to collect and any withholding tax will be for the Customer's account unless and until such time that Company is able to reclaim such tax.
- 2.2. If the Company arranges or undertakes the carriage, freight, insurance and other transport costs beyond its premises, such costs shall be for the Customer's account and shall in any event not affect the passing of title in Software licence.
- 2.3. Prices quoted are in Pounds Sterling unless otherwise agreed and stated within the EUA.
- 2.4. Commencing in year two (2) of this EUA the Company reserves the right to increase Subscription Services fees annually. Such increase shall be by an amount calculated at the percentage change in UK RPI over the twelve (12) month period to February each year as published by the Office for National Statistics, plus three per cent (3%). The resulting annual increase shall not exceed five per cent (5%) in total.

3. Invoicing and Payment

Company shall upon shipment raise an invoice for all perpetual Software licence, annual Software Support, annual Subscription Services and annual Software subscription fees, specified in an Order Agreement. The first year's provision of Software Support shall commence within three days of shipment of Software. The first year's provision of annual Subscription Services or annual Software subscription shall commence on issue of a Subscription Service Key to the Customer. Annual Subscription Services and/or annual Software subscription and annual Software Support shall be invoiced for each year of the Initial Term and thereafter for further annual periods unless terminated by either party upon expiry of the Initial Term or expiry of any subsequent annual period on ninety (90) days prior written notice to that effect. Where the Customer has used all acquired Credits prior to expiry of any then current annual period, the Company shall invoice the Customer for all subsequent Searches monthly in arrears at the per Credit rate specified in an Order Agreement until renewal of annual Subscription Services for a further annual period. Professional Services, or other services shall be charged at the rate(s) specified in an Order Agreement and will be invoiced as delivered, or as staged within an Order Agreement between the Company and the Customer as part of this EUA. When deliveries are spread over a period of time each consignment will be invoiced as despatched and treated as a separate account and payable accordingly. Payment of all invoices shall be due within 30 days of date of invoice. If payment is delayed for more than 30 days and the Customer has not raised a reasonable dispute in writing regarding the amounts invoiced, Customer agrees to pay interest at a rate of 2% per annum over the Bank of England base rate from the date payment was first due until payment is received in full. Alternatively the Company at its sole option may suspend Subscription Services and request the Customer to immediately return any Software in good and complete condition.

4. Carriage

- 4.1. All Software shall be shipped to the premises as indicated on the Order Agreement by electronic means wherever available. Physical media will be shipped only where specifically requested on the Order Agreement, or where electronic means are unavailable. Risk in the Software shall pass on transmission, or when it leaves the Company's premises.
- 4.2. The dates for delivery of the Software, Subscription Services and any Professional Services are approximate only and time is not of the essence. The Company will not be liable in any circumstances for the consequences of any delay in delivery or failure to deliver the Software, Subscription Services or any Support or Professional Services. If for any reason the Customer is unable to accept delivery of the Software when they are due and ready for delivery, the Company may store the Software at the Customer's risk and the Customer shall be liable to the Company to pay the reasonable costs of such storage and related insurance.

5. Security Interest

- 5.1. Company retains a security interest in all Software licences until paid for in full. All intellectual property rights in the Software and the Subscription Services remain vested with the Company and/or its third party suppliers and no intellectual property rights to any Software or Subscription Services are transferred to Customer.

6. Ownership

Customer acknowledges that the Software is licensed not sold and that all copyrights, patents, trade secrets and other rights, title and interest therein in whole or in part and all copies thereof, are the sole property of the Company or its related entities or third party suppliers. Customer shall gain no right, title or interest in the Software by virtue of this EUA other than the non-exclusive right of use granted herein. Without limiting the foregoing, Customer specifically acknowledges Company's exclusive rights to ownership in any copy, modification, translation, enhancement, adaptation, or derivation of the Software.

7. Licence, Use and Availability

- 7.1. Subject to the terms and conditions contained in this Agreement and Customer's payment of applicable Software licence, subscription Software licence and/or Subscription Service fees under this EUA, the Company hereby grants to the Customer: (i) a non-exclusive, non-transferable, irrevocable perpetual licence without rights to sublicense, to use the Software; and/or (ii) where specified as annual subscription, a non-exclusive, non-transferable, revocable annual licence without rights to sublicense, to use the Software; and/or (ii) a non-exclusive, non-transferable revocable annual licence without rights to sublicense, in respect of the Subscription Services; for the purpose as set forth in the applicable documentation for the Software; and according to the licence restrictions set forth in the related Order Agreement in accordance with this Clause 7.

7.1.1 Customer acknowledges and agrees that the Software and/or Subscription Services licensed under this Agreement shall only be used by the Customer and where licensed on an Enterprise basis, by those Customer Group Companies permitted to access the Software and/or Subscription Services.

7.1.2 The Customer may make up to three (3) Back Up Copies of the Software. Back Up Copies may not be utilised for live and/or Test purposes over and above the Software license(s) granted hereunder.

7.1.3 Customer will not otherwise copy, translate, modify, adapt, decompile, disassemble or reverse engineer the Software or Subscription Services, except only when and to the limited extent that applicable law expressly permits such activity, irrespective of the limitations contained herein.

7.2 The Software and/or Subscription Services are licensed in accordance with the relevant Order Agreement on either a "Corporate" or an "Enterprise" basis as defined below. Where neither is specified the licence is deemed to be a Corporate licence.

7.2.1 Where neither a Corporate or Enterprise licence type is specified, then for the purposes of this Agreement the Software and/or Subscription Services shall be deemed to be licensed on a Corporate basis.

7.2.2 **Corporate Licence** means the Software and/or Subscription Services may only be used for the internal day to day business purposes of the Customer and the Customer shall not permit access to the Software and/or Subscription Services, nor use or benefit of the Software and/or Subscription Services, by any Customer Group Company, affiliated legal entity or third party.

7.2.3 **Enterprise Licence** means the Software and/or Subscription Services may be used for the day to day business purposes of the Customer and/or Customer Group Companies (collectively "Legal Entities") for which an Enterprise 1 licence, Enterprise 2 licence, or Enterprise 3 licence has been specified in the Order Agreement in accordance with the following:

Enterprise 1: One to three Legal Entities
 Enterprise 2: Four to nine Legal Entities
 Enterprise 3: Unlimited Legal Entities

Legal Entities licensed in accordance with the foregoing may use the Software, but shall not permit access to or use of the Software by any unlicensed Customer Group Company, affiliated legal entities or third parties.

7.2.4 Where no specific licence parameter is specified in the Order Agreement then the Software and/or Subscription Services shall be deemed licensed by the quantity indicated therein for each respective component listed.

7.2.5 All Software licences are subject to the Customer having purchased and maintained current Support for an uninterrupted period.

7.3 **Subscription Service Credit usage** - in accordance with the definitions of Validation, International Validation and Verification, the following quantities of Credit(s) are required for each Search type thereunder:

Type of Search	Credits Used
Validation	1
Verification	6
International Validation (definition section (i))	1
International Validation (definition section (ii))	4

7.4 **Subscription Service Availability** - The Company shall use all reasonable endeavours to make the Subscription Services available between 00.45 – 24.00 hours Monday to Saturday and 07.00 – 24.00 hours on Sundays, exclusive of the time required for planned system enhancements, upgrades, updates, preventative maintenance and unplanned system maintenance for essential or emergency work to maintain availability and/or security of the Subscription Services.

7.5 **Subscription Service Security Requirements** - The Customer shall:

7.5.1 ensure that all devices used by the Customer to order Validation, International Validation and/or Verification checks, or access the Subscription Services are placed in a secure location and accessible only by Authorised Users, and that such devices are secured when not in use through such means as screen locks, shutting power controls off, or other reasonable security procedures; and

7.5.2 take all necessary measures to prevent unauthorised ordering of Validation, International Validation and/or Verification checks, or access to the Subscription Services by any person other than an Authorised User, including, without limitation, limiting the knowledge of Customer security codes, any telephone access number(s) that the Company provides, and any passwords that the Customer may use, to those individuals with a need to know; and

7.5.3 change Customer's user passwords at least every ninety (90) days, or sooner if an Authorised User is no longer responsible for accessing the Subscription Services, or if the Customer suspects an unauthorized person has learned the password, and using all security features in the software and hardware the Customer uses to order or access the Subscription Services; and

7.5.4 Before using any Subscription Services to obtain information about a natural person, the Customer must first obtain the consent of that person and comply with the notification requirements of the Data Protection Act 1998 and in particular, will notify him or her that the information which the person gives to the Customer:

7.5.4.1 may be disclosed to a credit reference or fraud prevention agency, which may keep a record of that information; and

7.5.4.2 that such credit reference or fraud prevention agency may disclose that information, and the fact that a Search was made, to its other customers for the purposes of fraud prevention.

7.5.5 The Customer shall, on request, give the Company a copy, or transcript, of the notification the Customer uses.

7.5.6 To the extent that the Customer is able to do so, the Customer grants to the Company's third party data provider a perpetual, royalty free right to keep a record of the information referred to in clause 7.5.4.1 for the purposes referred to in paragraph 7.5.4.2.

7.5.7 The Customer acknowledges that any un-used Credits remaining upon expiry of any annual period may not be carried forward for use in a subsequent annual period and are not refundable.

8. Warranty

8.1 The Company warrants that in accordance with this Agreement:

8.1.1 it has title to the Software and has the right to sell the Subscription Services and grant the Software licence(s) purchased by the Customer;

8.1.2 the Subscription Services will be free from material defects in materials and workmanship;

8.1.3 the Software supplied materially conforms to its standard specification; and

8.1.4 the services shall be provided using reasonable care and skill.

8.2 The Customer's sole and exclusive remedy in the event of breach of the above warranty is the correction of any failure reasonably determined by the Company as a failure by the Company to comply with such warranty provisions. Correction may comprise, at the Company's sole discretion, re-performance of the services or portion thereof, replacing, repairing or adjusting the Subscription Services and/or Software without charge to the Customer or refunding any relevant portion of paid fees. All remedies for any breach of the warranty provisions are available only if such breach is reported to Company in writing within 90 days of shipment of the defective Software; and within 30 days of date of issue of a Subscription Services Key or completion of the defective services.

9. Software Support and Professional Services

Provision of Software Support and Professional Services are available and provided subject to the Company's published "Software Support Agreement – Payments Software" and Professional Services Agreement (both of which form part of this EUA) copies of which are available at: www.bottomline.com/uk/product-terms-conditions. Customer acknowledges that the Company may amend such agreements from time to time.

10. Limits of Liability

10.1 Notwithstanding any other provisions in this Agreement the Company's liability to the Customer for death or injury resulting from the Company's negligence or the negligence of its employees agents or sub-contractors shall not be limited.

10.2 Subject to Condition 10.4, the Company's maximum aggregate liability for any damage to the tangible property of Customer resulting from the negligence of the Company or its employees, agents or sub-contractors shall not exceed £1,000,000.

10.3 Subject to Condition 10.4 the Company's maximum aggregate liability for any breach of its contractual obligations or any tortious act or omission, except for negligence pursuant to Clause 10.2, shall be limited to the greater of £100,000 or the combined total amount paid by Customer for Software licences, Subscription Services (during the preceding twelve (12) months) and Professional Services, to which such claim or series of related claims relates.

10.4 In no event shall the Company have any liability:

10.4.1 for loss of profits, goodwill, business interruption, delay or failure in provision of services, or any type of special, indirect, consequential or incidental loss or damages (including loss or damage suffered by the Customer as a result of any action brought by a third party) even if the Company has been advised of the possibility of such damages; and

10.4.2 in respect of any liability (including breach of warranty) which arises as a result of the misuse of the Software and/or Subscription Services supplied hereunder, or use thereof in combination with any equipment and/or software not approved by the Company or as a result of any defect or error in any equipment and/or software not supplied by the Company; and

10.4.3 unless the Customer shall have served notice in writing of any facts which may give rise to a claim against the Company hereunder within six years of the date it either became aware of the circumstances giving rise to a claim or the date when it ought reasonably to have become so aware.

10.5 Except as expressly provided in this Agreement all warranties, conditions, representations, indemnities and guarantees, whether express or implied, arising by law, custom, oral or written statements of the Company or its third party licensors or otherwise (including, without limitation, any warranties of merchantability, fitness for particular purpose, or of error-free and uninterrupted use) are hereby superseded, excluded and disclaimed to the fullest extent permitted by law.

10.6 The Customer acknowledges that: (i) data provided via the Subscription Services for Validation, International Validation and/or Verification is provided to the Company by one or more third parties which the Company does not control, in particular in relation to the accuracy or completeness of such data; (ii) the volume and nature of the information makes it impractical for such third parties to verify the data; and (iii) in recognition of (i) and (ii) the Company shall not in any circumstances be liable for any loss or damage arising from any inaccuracies, faults or omissions in, or in the provision of, the Subscription Services and/or the data obtained via any Validation, International Validation and/or Verification Search except to the extent caused by the Company's negligence or wilful default.

11. Third Party Intellectual Property Infringement

11.1 Company agrees to defend, at its expense, any suit against Customer based upon a claim that any Software licensed and/or Subscription Services provided to Customer under this Agreement infringe any patent or copyright recognised by one of the signatories to the Berne Convention, and to pay any settlement, or any damages finally awarded in any such suit.

11.2 Company's obligations under this Clause 11 shall not be effective unless Customer notifies Company in writing of any claim or threatened or actual suit within ten (10) days of knowledge thereof and Customer gives full control of the defence and settlement, along with Customer's full co-operation, to Company.

11.3 Company may, at its own expense: (i) procure for Customer the right to continue to use the licensed Software and/or Subscription Services; (ii) make the licensed Software and/or Subscription Services non-infringing; or (iii) terminate the Software licences and/or Subscription Services and refund the applicable licence fee (subject to three-year straight line depreciation) and/or any Subscription Service fees for any un-used period, received from Customer.

11.4 Company shall have no liability for any claim based on: (i) Customer's continued use after written notification, of a non-current release of the applicable licensed Software so long as a current release was made available to Customer without additional charge (subject to having purchased current Software Support); (ii) Customer's use of the licensed Software and/or Subscription Services other than in accordance with the rights granted under this Agreement; (iii) Customer's combination of the licensed Software with any other equipment or software not provided by Company, where such infringement would not have occurred but for such combination; or (iv) intellectual property rights owned by Customer or any of its affiliates.

11.5 This Clause 11 states Customer's sole remedy and Company's exclusive liability in the event that Customer's use of any Software and/or Subscription Services provided under this EUA infringes on the intellectual property rights of any third party.

12. Alterations

The Customer hereby undertakes not to alter or modify the whole or any part of any Software supplied hereunder nor, without the prior written consent of the Company, to permit the whole or any part of the Software supplied hereunder to be combined with or become incorporated in any other software.

13. Company Intellectual Property

Customer acknowledges that the information contained in the Software and Subscription Services is confidential and contains trade secrets and proprietary data belonging to the Company (or its third party licensors), and that the presence of copyright notices on the medium containing the Software, or not, does not constitute publication or otherwise impair the confidential nature thereof. No Intellectual Property Rights as they may exist anywhere in the world are conveyed to the Customer or to any third party. Customer shall implement all reasonable measures necessary to safeguard the Company's (and its third party licensors') ownership of, and the confidentiality of the Software and Subscription Services, including, without limitation: (a) allowing its employees, agents and third parties access to the Software and Subscription Services only to the extent necessary to permit the performance of their ordinary services to the Customer and to require, as a condition to such access, that such persons comply with the provisions of this Clause 13; (b) cooperating with the Company (and its third party licensors, as appropriate) in the enforcement of such compliance by Customer's employees, agents and third parties; (c) prohibiting the removal or alteration of any copyright or confidentiality labels or notices contained in the Software and Subscription Services; (d) prohibiting the copying of the Software except as permitted pursuant to this Agreement; and (e) not disclosing the Software or Subscription Services to any third party other than to the limited extent permitted under this Agreement. Notwithstanding the foregoing, the Customer agrees not to disclose the Software or Subscription Services (without the Company's prior written consent) to any service bureau or other third party whose primary function shall be to provide the Customer with hosting and/or day-to-day management and/or support responsibility for the Software or Subscription Services. Customer acknowledges that use or disclosure of the Software or and Subscription Services in violation of this Agreement may cause irreparable harm to the Company (and its third party licensors). Customer acknowledges that no remedy available in law may be sufficient in the event of a material breach of this Agreement by the Customer, Customer Group Companies, its agents, employees, sub-contractors or third parties, in respect of the confidentiality of the Company's (and its third party licensors') intellectual property; and that in connection therewith the Company (and its third party licensors) shall each have the right to seek injunctive relief in addition to any other legal or financial remedies to which they may be entitled.

14. Software Audit

The Customer agrees that upon reasonable prior written notice the Company may periodically gain access (not more than once per annum) to Customer site(s) to confirm the Customer's adherence to the terms of use and licence parameters specified under this Agreement. Where such audit confirms any variance to such terms and parameters, then the parties will execute an addendum to the EUA to rectify such variance and the Customer shall pay any related licence and Support fees agreed thereunder. In the event that the parties fail to agree such fees, then Company reserves the right to terminate this Agreement in relation to such licence and/or Support with immediate effect and Customer shall cease use of such Software, returning all copies thereof to the Company in accordance with Clause 17.3.

15. Confidentiality

Each party shall treat as confidential information all information (including Software and Subscription Services, any data obtained via use thereof; and the terms of the EUA) obtained from the other pursuant to the EUA and shall not divulge such information to any person (except to such party's own employees and then only to those employees who need to know the same) without the other party's prior written consent provided that this shall not extend to information which was rightfully in the possession of such party prior to the commencement of the negotiations leading to the EUA (and not subject to any confidentiality undertakings), which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this clause), is required to be disclosed by law or relevant regulatory body, or which is trivial or obvious. Each party shall ensure that its employees are aware of and comply with the provisions of this condition and ensure that it is observed and performed by them.

16. Data Protection

The Parties further agree to handle all personal data in accordance with all applicable data protection legislation and in particular the Data Protection Act 1998.

17. Termination

17.1 Either party may terminate this EUA in writing if:

- (i) the other party commits any material breach of any term of this EUA and (in the case of a breach capable of being remedied) shall have failed, within 30 days after the receipt of a request in writing so to do; or
- (ii) the other party has an interim or bankruptcy order made against it or enters into or becomes subject to a scheme, composition or voluntary arrangement with its creditors or becomes subject to a winding-up, dissolution, administration or receivership proceedings;

17.2 The Company may further without prejudice to its other rights, stop Software in transit, suspend access to Subscription Services and the performance of Professional Services or further deliveries of Software, and/or terminate the EUA and any licences granted to Customer forthwith on giving notice in writing to the Customer if Customer fails to pay any invoice in accordance with the foregoing payment terms.

17.3 Upon termination of any Software licence, irrespective of cause, the Customer shall return forthwith all copies of the Software subject to the terminated licence without any rights of refund, unless such termination is made by the Company in accordance with the provisions of Clause 11.3.

17.4 Following termination for any reason whatsoever, any monies owing from the Customer to the Company shall immediately become due and payable.

18. Assignment

The Customer shall not be entitled to assign, sub-licence or otherwise transfer the rights and obligations granted hereunder, or under the EUA, whether in whole or in part unless otherwise agreed in writing by a duly authorised representative of the Company. The Company shall be entitled to sub-contract any Professional Services work relating to any Order Agreement without the consent of the Customer provided that such work is performed in accordance with the terms of this Agreement.

19. Force Majeure

With the exception of payment of outstanding invoices, neither Party shall be responsible for any delay or failure in performance resulting from acts beyond the control of such party. Such acts shall include but not be limited to: an act of God; an act of war; civil unrest; terrorism; riot; epidemic/pandemic; fire; explosion or accidental damage; extreme weather conditions (including but not limited to: flood, storm, or other disaster); an act of government; industrial action or lockouts; and failure of the world wide web. In the event of such a Force Majeure event, the time for performance or cure shall be extended for a period equal to the greater of the duration of the Force Majeure or three (3) months. The party claiming to be prevented, hindered or delayed in the performance of any of its obligations under the EUA by reason of a Force Majeure event shall use all reasonable commercial endeavours to mitigate against the effects and consequences of the Force Majeure event. The affected party shall resume performance of its obligations under the EUA immediately upon the end of the Force Majeure event. Where no performance or cure is possible after the three (3) month period has elapsed, and in the reasonable view of the parties will not be forthcoming or possible within a further one (1) month from that date, the party not affected by the Force Majeure event may decide to terminate the EUA on service of written notice upon the party so prevented, hindered or delayed, in which case no party shall have any liability or obligation to the other under the EUA other than the payment of monies due.

20. Notices

Any notice or other communication to be given under this EUA must be in writing and may be delivered or sent by pre-paid first class letter post to the Company at its registered address or facsimile transmission to an officer of the Company. Any notice or document shall be deemed served: if delivered electronically by e-mail at the time of delivery; if posted 48 hours after posting; and if sent by facsimile transmission at the time of delivery.

21. Invalidity

The invalidity, illegibility or unenforceability of any provision shall not affect any other part of this Agreement.

22. Third Party Rights

A person who is not a party to this EUA shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this EUA (including Customer Group Companies, aside from any rights that they may have to use the Software pursuant to the Customer's licence grant hereunder). This condition does not affect any right or remedy of any person which exists or is available otherwise pursuant to the Act.

23. Non Solicitation

While this Agreement remains in effect and for one (1) year following the termination of the Agreement, neither party shall directly or indirectly recruit, solicit or hire any employee of the other party, or induce or attempt to induce any employee of a party hereto to terminate his/her employment with the other party; provided that either party shall be permitted to hire any employee of the other party who responds to a general employment advertisement or solicitation.

24. Law and Jurisdiction

This Agreement shall be governed by and construed in accordance with the Laws of England and Wales and shall be subject to the exclusive jurisdiction of the English Courts.

The Customer agrees that it has read this Agreement and agrees to be bound by the terms and conditions contained herein.

**Signed for and on behalf of the Company
by the Company's duly authorised representative**

Name:

Title:

Signature:

Date:

**Signed for and on behalf of the Customer
by the Customer's duly authorised representative**

Name:

Title:

Signature:

Date: