

MASTER TERMS (UK)

The following terms and conditions ("**Master Terms**") are incorporated into the Product Order and, together with the applicable Product Terms and Professional Services Terms (if applicable), form part of the Agreement between Capita and Customer. In some cases additional or modified rights to those provided in these Master Terms will be included in a Product Order.

These Master Terms are applicable to both Software as a Licence (SaaS) and Software as a Service (SaaS) Products offered by Capita. The Product Order will set out whether the Product ordered by Customer is a SaaS or a SaaS Product and Customer should ensure that it reviews the Product Terms for the applicable SaaS or SaaS Product, as the terms and conditions vary for SaaS Products and SaaS Products.

1. DEFINITIONS AND INTERPRETATION.

1.1 "**Access Credentials**" has the meaning set out in Section 3.1 of these Master Terms.

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

1.3 "**Agreement**" has the meaning given in the Product Order.

1.4 "**Agreement Effective Date**" means the effective date of the Agreement, as specified in the Product Order.

1.5 "**Authorised Purpose(s)**" means the purpose(s) set forth in the applicable Product Terms for which Authorised Users are permitted to access and use the Product(s) and any related Content.

1.6 "**Authorised User**" means the employees and independent contractors of Customer and Listed Affiliates (if any) who are entitled to use the Product(s) in accordance with the Agreement on Customer's or such Listed Affiliates' behalf.

1.7 "**Capita**" means the Capita entity stated in the Product Order.

1.8 "**Capita IT Systems**" means any hardware, software or other IT infrastructure used by Capita or its subcontractors to provide the Product(s) and Services, or otherwise made available to Customer under or in connection with the Agreement.

1.9 "**Capita Materials**" has the meaning given in Section 6.4.12 of these Master Terms.

1.10 "**Confidential Information**" means all written or oral information, disclosed, directly or indirectly, by either Party (the "**Disclosing Party**") to the other Party (the "**Receiving Party**"), related to the business or operations of the Disclosing Party or a third party that has been marked or otherwise identified as confidential or that by the nature of the information or circumstances surrounding its disclosure ought reasonably to be understood as being confidential or proprietary. Confidential Information of Capita includes the Product(s), Documentation and Content.

1.11 "**Content**" means electronic data, information and/or other types of content (including third party websites and web-based services), if any, that is displayed, distributed or otherwise made accessible to Customer and Listed Affiliates via the Product(s), but does not include Customer Data, Customer Confidential Information or the Product(s).

1.12 "**Customer**" means the entity specified as the customer in the Product Order and which has agreed to licence Products from Capita.

1.13 "**Customer Data**" means any data, information and/or other types of content submitted, posted or displayed by, or on behalf of Customer and its Affiliates, on the Product(s) or otherwise shared with Capita in connection with the Agreement, excluding Content.

1.14 "**Customer Systems**" means Customer's information technology infrastructure, including computers, software, databases, electronic systems, and networks, whether

- operated directly by Customer or through a third party.
- 1.15 **“Deliverable”** means any deliverable or output to be provided to Customer in connection with Professional Services as set out in the Product Order, excluding any Customer materials contained in the Deliverables and standard Products, Content and Documentation provided by Capita.
- 1.16 **“Documentation”** means any then-current user manual, handbook or other documentation for a Product made available by Capita for Customer’s use.
- 1.17 **“Export Control Laws”** has the meaning given to it in Section 5.1 of these Master Terms.
- 1.18 **“Hosting Fees”** means the hosting fees described as such in the Product Order.
- 1.19 **“Hosting Period”** means, for SaaS Products, the period stated in a Product Order (as it may be renewed or extended per the terms of the Product Order) during which the Hosting Services shall be provided.
- 1.20 **“Hosting Provider”** has the meaning given to it in Section 3.3 of these Master Terms.
- 1.21 **“Hosting Services”** means: (a) in respect of SaaS Products, the services (if any) described as such in the Product Order or the applicable Product Terms; and (b) in respect of SaaS Products, the hosting of the SaaS Products by Capita or a third party in accordance with the Agreement.
- 1.22 **“Insolvency Event”** means, in respect of either Party: (a) other than for the purposes of a bona fide reconstruction or amalgamation, such Party passing a resolution for its winding up, or a court of competent jurisdiction making an order for it to be wound up or dissolved, or that Party being otherwise dissolved; (b) the appointment of an administrator of, or the making of an administration order in relation to, that Party, or the appointment of a receiver or administrative receiver of, or an encumbrancer taking possession of or selling, the whole or any part of that Party’s undertaking, assets, rights or revenue; (c) that Party entering into an arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them, or taking steps to obtain a moratorium, or making an application to a court of competent jurisdiction for protection from its creditors; (d) that Party being unable to pay its debts, or being capable of being deemed unable to pay its debts, within the meaning of section 123 of the Insolvency Act 1986; (e) that Party entering into any arrangement, compromise or composition in satisfaction of its debts with its creditors; or (f) that Party ceasing or threatening to cease to carry on business.
- 1.23 **“Intellectual Property Rights”** means all intellectual and industrial property rights of any type or nature recognised in any jurisdiction in the world, including copyrights, moral rights and other rights associated with works of authorship; trade secrets and know-how; patents, patent rights, and other rights in inventions; trade marks (whether registered or unregistered), trade names, trade dress, service marks, logos, symbols and other source identifiers; and including applications and registrations for, and extensions, continuations, renewals, and re-issuances of any of the foregoing.
- 1.24 **“Licence Fees”** means the licence and/or subscription fees described as such in the Product Order.
- 1.25 **“Listed Affiliate”** means a Customer Affiliate listed in a Product Order as a Customer entity authorised to use one or more of the Products listed therein during the applicable Usage Period.
- 1.26 **“Maintenance Release”** has the meaning given to it in the applicable Product Terms.
- 1.27 **“New Version”** has the meaning given to it in the applicable Product Terms.
- 1.28 **“Payment Terms”** means the merchant payment terms and conditions incorporated where applicable into the Product Order.
- 1.29 **“Product Order”** means the order, in the form prescribed by Capita, submitted by Customer for one or more Products and accepted by Capita and which incorporates these Master Terms, the applicable Product Terms and, if applicable, the Professional

- Services Terms.
- 1.30 **“Product Terms”** means the additional terms and conditions (including the Usage Rights, Payment Terms and terms describing and governing the Support Services and/or Hosting Services (if any), and any documents incorporated, or referred to, therein) applicable to each Product (and related Content) ordered by Customer and which are incorporated into the Product Order.
- 1.31 **“Product(s)”** means the SaaS Product(s) and/or SaaS Product(s) (including any configuration of such Product(s) by Customer or its Authorised Users) set out in the Product Order, and excludes Content and Third Party Services.
- 1.32 **“Professional Services”** means the professional services (such as installation, configuration, consulting, training and exit assistance) to be delivered by Capita to Customer as specified in the Product Order.
- 1.33 **“Professional Services Fees”** means the fees for Professional Services described as such in the Product Order.
- 1.34 **“Professional Services Terms”** means the terms describing and governing the Professional Services (if any) provided by Capita and which are incorporated into the Product Order.
- 1.35 **“Relevant Period”** has the meaning set out in Section 11.2 of these Master Terms.
- 1.36 **“Representatives”** has the meaning set out in Section 9 of these Master Terms.
- 1.37 **“Restricted Item”** has the meaning set out in Section 6.1 of these Master Terms.
- 1.38 **“SaaS Product(s)”** means software products (including any Maintenance Releases and New Versions) licensed to Customer under the Agreement.
- 1.39 **“SaaS Product(s)”** means software-as-a-service subscription products, including updates thereto made generally available by Capita to its customers, to which Customer is granted access under the Agreement.
- 1.40 **“Services”** means Support Services, Professional Services and Hosting Services (as applicable).
- 1.41 **“Support Fees”** means the fees for Support Services described as such in the Product Order.
- 1.42 **“Support Hours”** means any period of hours specified in the Product Order (or applicable Product Terms) during which Capita shall provide the Support Services detailed in the Product Order.
- 1.43 **“Support Period”** means the period stated in a Product Order (as it may be renewed or extended per the terms of the Agreement) during which Capita shall supply, and Customer shall take and pay for, the Support Services.
- 1.44 **“Support Services”** means the support services provided by Capita pursuant to the Agreement, excluding any Professional Services and Third Party Services.
- 1.45 **“Suspension”** means a suspension of a SaaS Product) or any Services in accordance with Section 2.6 of these Master Terms.
- 1.46 **“Third Party Services”** has the meaning set out in Section 7.3 of these Master Terms.
- 1.47 **“Third Party Software”** means any open-source or other software relating to a Product that are not proprietary to Capita.
- 1.48 **“Usage Period”** means the period stated in the Product Order (as it may be renewed or extended per the terms of the Agreement) during which Customer’s Authorised Users are permitted to use and/or access the Product(s) listed therein.
- 1.49 **“Usage Rights”** means the licence to use or right to access (as applicable) the Product, Content and/or Documentation as set out in the applicable Product Terms.
- 1.50 Unless the context requires otherwise: (a) “including” (and any of its derivative forms) means including but not limited to; (b) “may” means has the right, but not the obligation to do something and “may not” means does not have the right to do something; (c) “will” and “shall” are expressions of command, not merely expressions of future intent or

expectation; (d) “written” or “in writing” is used for emphasis in certain circumstances, but that will not derogate from the general application of the notice requirements set forth in the Agreement in those and other circumstances; (e) use of the singular imports the plural and vice versa; and (f) use of a specific gender imports the other gender(s).

1.51 A reference to a statute or statutory provision: (a) is a reference to it as amended, extended or re-enacted from time to time; and (b) shall include all subordinate legislation made from time to time under that statute or statutory provision.

1.52 In the Agreement, Capita and Customer are sometimes referred to individually as a “**Party**” and together as the “**Parties**”.

2. USAGE RIGHTS.

2.1 Customer’s and its Listed Affiliates’ Usage Rights are specified in the Product Order and applicable Product Terms. Unless explicitly stated otherwise, such Usage Rights shall be on a non-exclusive and non-transferable basis.

2.2 The Agreement does not convey to Customer title to or ownership of the Product(s), Content, Documentation or Deliverables, but only a right of limited use on the terms and conditions set forth herein and in the Product Order (and any applicable Product Terms and Professional Services Terms). All rights not expressly granted by Capita to Customer are reserved by Capita and its licensors.

2.3 The Product(s), Content and Deliverables may contain proprietary and/or Third Party Software components that are subject to additional or different licence and notice terms. If so, Customer shall (and shall procure that any Listed Affiliates and its and their Authorised Users shall) comply with all applicable licence and notice terms identified in the Product Order (or applicable Product Terms) or notified by Capita to Customer from time to time.

2.4 Customer and Listed Affiliates may exercise the Usage Rights through Authorised Users. Customer is responsible and liable for all

uses of the Product(s), Content, Documentation and Deliverables resulting from access provided by Customer or any Listed Affiliate, directly or indirectly, whether such access or use is permitted by, or in violation of, the Agreement. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of Listed Affiliates and Authorised Users, and any act or omission of a Listed Affiliate or an Authorised User that would constitute a breach of the Agreement if taken by Customer will be deemed a breach of the Agreement by Customer. Customer shall make all Listed Affiliates and Authorised Users aware of the provisions of the Agreement as applicable to such Listed Affiliates’ and Authorised Users’ use of the Product(s), Content, Documentation or Deliverables and shall cause Listed Affiliates and Authorised Users to comply with such provisions.

2.5 Customer may make a reasonable number of copies of the SaaS Product(s) and Documentation solely for back-up and archival purposes. When doing so, Customer shall reproduce and include all copyright, trade marks (whether registered or unregistered), and other proprietary rights notices on any copies it makes (or has made) of the SaaS Product(s) and Documentation, including partial copies. Any copies Customer makes (or has made) of the SaaS Product(s) or Documentation, in whole or in part, are the property of Capita (and its licensors).

2.6 In addition to Capita’s suspension rights under Section 8.5.2 below, Capita may directly or indirectly, suspend or otherwise deny Customer’s (including any Authorised User’s) access to, or use of, all or any part of a SaaS Product or any Services provided under a Product Order without incurring any resulting obligation or liability, if:

2.6.1 Capita reasonably determines that:

- (a) there is a threat or attack on the SaaS Product or the Services;
- (b) Customer’s or any Authorised User’s use of the SaaS Product or the Services disrupts or poses a security risk to Capita, the SaaS

- Product or the Services or to any other customer or vendor of Capita;
- (c) Customer, or any Authorised User, is using the SaaS Product or the Services for fraudulent or illegal activities;
- (d) Customer has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganisation, liquidation, dissolution, or similar proceeding; or
- (e) Capita's provision of the SaaS Product(s) or the Services to Customer or any Authorised User is prohibited by applicable law;
- 2.6.2 any vendor of Capita has suspended or terminated Capita's access to or use of any third party services or products required to enable Capita to provide, or Customer to access, the SaaS Product(s) or the Services; or
- 2.6.3 Customer is in breach of the Usage Rights (or any other access and/or license terms and restrictions) specified under the Agreement.
- 2.7 Capita shall use commercially reasonable efforts to provide written notice of any Suspension and to provide updates regarding resumption of access to the SaaS Product(s) and/or the Services (as applicable) following any Suspension. Capita shall use commercially reasonable efforts to resume providing access to the SaaS Product(s) and/or the Services (as applicable) as soon as reasonably possible after the event giving rise to the Suspension is cured. Capita will have no liability for any damage, liabilities, losses (including any loss of data or profits), expenses, or any other consequences that Customer may incur as a result of a Suspension or as a result of suspension in accordance with Section 8.5.2 of these Master Terms. Section 2.6 and this Section 2.7 do not limit any of Capita's other rights or remedies, whether at law, in equity, or under the Agreement (including, without limitation, Capita's rights to terminate the Agreement).
- 2.8 Capita reserves the right, in its sole discretion, to charge Customer, and Customer agrees to pay, any charges, fees or other costs incurred by Capita in resuming the provision of access to the Product(s) or Services following a Suspension, or any suspension in accordance with Section 8.5.2 of these Master Terms that is caused by, or attributed to, in Capita's opinion, Customer or any Authorised User.
- 2.9 Without prejudice to Capita's other rights or remedies, whether at law, in equity, or under the Agreement (including, without limitation, Capita's rights to terminate the Agreement), if any unauthorised use is made of the Product(s), Content or Documentation and such unauthorised use is attributable to any act or omission of, or through, Customer (including breach of any of the provisions of the Agreement), then Customer shall immediately be liable to pay Capita an amount equal to the fees that Capita would have charged, had Capita authorised the unauthorised use at the beginning of the period of that unauthorised use, together with interest at the rate of four per cent (4%) per annum above Barclays Bank Plc's current base rate from time to time; this interest will begin to accrue on the date on which that unauthorised use started and will accumulate on the outstanding balance on a daily basis until paid in accordance with this Section 2.9.
3. **ACCESS AND HOSTING.**
- 3.1 If necessary for Authorised Users to gain access to or otherwise use or operate a Product, Capita shall provide to Customer the necessary keys and other access protocols or credentials (collectively, "**Access Credentials**") promptly after accepting Customer's Product Order.
- 3.2 If so requested by Capita, Customer shall designate at least one Authorised User to serve as administrator and act as Customer's principal point of contact with Capita for purposes of Customer's account administration.

- 3.3 For SaaS Product(s), the Product Order (or applicable Product Terms) shall specify whether Capita or Customer (either itself or through a third party hosting provider ("**Hosting Provider**")) will provide the hosting environment for the SaaS Product(s). If Customer is responsible for providing the hosting environment (either itself or through a Hosting Provider) Customer shall:
- 3.3.1 ensure the hosting environment meets Capita's operating environment specifications for the SaaS Product(s) (including as may be specified in the applicable Product Terms) and is properly configured for installation and operation of the SaaS Product(s);
- 3.3.2 arrange for Capita to have access to the hosting environment promptly following acceptance of the Product Order for purposes of installing and configuring the SaaS Product(s) for access and use by Authorised Users (where the Product Order provides that Capita is responsible for such installation and/or configuration of the SaaS Product(s) in the hosting environment), and thereafter as may be reasonably necessary for Capita's ongoing provision of services; and
- 3.3.3 if Customer authorises a Hosting Provider to host and operate the SaaS Product(s) on Customer's behalf, first obtain such Hosting Provider's written agreement to be subject to, and comply with, all applicable terms and conditions of the Agreement. In all such cases, Customer shall be responsible and liable for the acts and omissions of its (and its Affiliates') personnel and contractors (including the Hosting Provider) as if they were the acts and omissions of Customer.
- 3.4 If the Product Order (or applicable Product Terms) specifies that Capita is responsible for providing the hosting environment for any of the Products, Capita shall (or shall engage a Hosting Provider to) perform the Hosting Services during the applicable Hosting Period(s). Capita reserves the right to change, discontinue, modify or remove features or functionality from the Hosting Services upon notice to Customer, including the termination of any Hosting Services where a Hosting Provider providing such Hosting Services on behalf of Capita ends its provision of such Hosting Services.
- 3.5 Unless otherwise specified in the Product Order (or applicable Product Terms), Capita does not guarantee the availability of, or any other service levels relating to, any Hosting Services provided by Capita or any Hosting Provider.
- 3.6 Customer shall comply with:
- 3.6.1 the terms of any Hosting Provider engaged by Capita for the performance of the Hosting Services, as set out in the Product Order and as updated from time to time, as notified by Capita to Customer; and
- 3.6.2 any Capita hosting terms as notified by Capita to Customer from time to time.
4. **CONTENT, CUSTOMER DATA AND CUSTOMER SYSTEMS.**
- 4.1 The Product(s) may enable Authorised Users to search for, find, store, manage, and use Content that is provided or made accessible through the Product(s) or to submit, post or display Customer Data to or on the Product(s). Customer acknowledges that Capita does not endorse, support, represent or guarantee the completeness, truthfulness, accuracy, reliability, usefulness, timeliness or other attributes of any Content or Customer Data, nor does Capita review, test or attempt to verify the accuracy or currency of any Customer Data or Content. As between Customer and Capita, Customer is solely responsible for:
- 4.1.1 determining the suitability of any Content or Customer Data for its intended use by Customer (including any necessary testing); and
- 4.1.2 as necessary for its intended use, verifying the authenticity, integrity, security and accuracy of the Content and any Customer Data prior to using it.

4.2 Capita has no obligation to preview, verify, flag, modify, filter or remove any Customer Data or Content. Capita may, in its sole discretion:

4.2.1 modify and add Content made available through the Product(s); and

4.2.2 remove, disable or restrict access to any Content or Customer Data (but is not responsible for any failures or delays in removing, disabling or restricting access to any Content or Customer Data, unless otherwise provided herein),

including Content or Customer Data that may be considered harmful, inaccurate, unlawful or otherwise objectionable or if Capita is required by any third party rights holder to remove Content or Customer Data, or receives information that Content or Customer Data may violate applicable law or third party rights.

4.3 Without prejudice to any obligation in these Master Terms, Customer shall comply with its obligations relating to Customer Data and Customer Systems in the Product Order and applicable Product Terms.

5. **EXPORT.**

5.1 Customer shall not, and shall ensure that its Listed Affiliates shall not, export (directly or indirectly) the Product(s) or any technical data acquired from Capita under the Agreement in breach of any applicable laws or regulations ("**Export Control Laws**"), including United States export laws and regulations, to any country for which such Export Control Laws, at the time of export, require an export licence or other governmental approval without first obtaining such licence or approval.

5.2 Customer undertakes (and shall ensure that each Listed Affiliate undertakes):

5.2.1 to contractually oblige any third party to whom it discloses or transfers any such data or Product(s) to make an undertaking to it in similar terms to the one set out in Section 5.1 above; and

5.2.2 if requested, to provide Capita with any reasonable assistance to enable Capita to perform any activity required by any competent government or agency in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.

6. **RESTRICTIONS AND CUSTOMER OBLIGATIONS.**

Restrictions.

6.1 Customer shall not, and shall cause Listed Affiliates and Authorised Users not to, act outside the scope of the Usage Rights that are expressly granted by Capita in the Agreement. Further, in relation to any Product, Content or Documentation (each a "**Restricted Item**") Customer shall not, and shall not permit or allow Listed Affiliates, Authorised Users, or any other person to:

6.1.1 use the Restricted Item in any manner that is not authorised by, or not consistent with, the Agreement;

6.1.2 reverse engineer, decompile, disassemble, or otherwise translate or derive any trade secrets embodied in the Restricted Item or the source code for any components of the Restricted Item, or attempt to do so (except as otherwise expressly permitted by applicable law for computer interoperability);

6.1.3 access or use the Restricted Item in order to develop or support, or assist another party in developing or supporting, any products or services competitive with the Restricted Item;

6.1.4 disclose or give access to the Restricted Item to any person who is involved in any way in the design or development of a competitive alternative to any Product;

6.1.5 access or use the Restricted Item to operate the business of a third party or to process data or content provided by a third party for the operation of a third party's business, or otherwise use the Restricted Item on a third

party's behalf, or to act as a service bureau or provider of application services to any third party;

6.1.6 alter, obscure, or remove any copyright, trade mark (whether registered or unregistered) or other proprietary rights notice from the Restricted Item;

6.1.7 knowingly or intentionally re-use, disseminate, copy, or otherwise use the Restricted Item in a way that infringes, misappropriates, or violates any trade mark (whether registered or unregistered), copyright, patent, trade secret, publicity, privacy or other right of any third party;

6.1.8 take any action designed or intended to:

(a) interfere with the proper working of the Restricted Item; or

(b) circumvent, disable, or interfere with security-related features of the Restricted Item or features that prevent or restrict use, access to, or copying the Restricted Item, or that enforce limitations on use of the Restricted Item;

6.1.9 sell, lend, lease, assign, novate, transfer, pledge, permit a lien upon, mortgage, charge or sublicense any of the rights or obligations under the Agreement with respect to the Restricted Item;

6.1.10 do anything which may damage the reputation of Capita, its Affiliates, Capita's licensors or the Restricted Items;

6.1.11 move, modify, interface, copy, broadcast, reproduce, port or otherwise use or route any Restricted Items, or any portion thereof, with or to any other equipment, network or software that Capita, in its sole opinion, determines is interfering or may interfere with the performance of the Restricted Items, or any portion thereof and, from time to time, upon

Capita's written request, Customer shall notify Capita in writing of any and all such equipment, network and software;

6.1.12 access, store, distribute or transmit any material during the course of its use of the Product(s) or use the Product(s) that:

(a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

(b) is a virus or malicious code in any form;

(c) facilitates illegal activity;

(d) depicts sexually explicit images;

(e) promotes unlawful violence;

(f) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability;

(g) violates any third party privacy rights; or

(h) is otherwise illegal or causes damage or injury to any person or property; or

6.1.13 interfere with or disrupt the integrity or performance of the Product(s), including by disrupting the ability of any other person to use or enjoy the Product(s) or Content, or attempt to gain unauthorised access to the Product(s), Customer Data, Content or related systems or networks.

The restrictions set out in this Section 6.1 are in addition, and without prejudice, to any restrictions set out in the Product Order or the applicable Product Terms.

6.2 At Capita's written request, and no more than once every six (6) months, Customer shall provide Capita with a signed certification verifying that the Restricted Items are being used and/or accessed in accordance with the Agreement and that no unlicensed or unauthorised use of the

Restricted Items is occurring.

6.3 In addition to the foregoing, at Capita's written request, Customer shall (and shall procure that any Listed Affiliates, and any Hosting Provider (if applicable), shall) permit Capita or its designated representatives to review and verify Customer's (and Listed Affiliates' and, if applicable, the Hosting Provider's) records, deployment, and use of the Restricted Items for compliance with the terms and conditions of the Agreement, and:

6.3.1 such review and verification may be conducted remotely or onsite, at Capita's discretion;

6.3.2 any onsite review shall be scheduled on reasonable notice, shall be conducted during normal business hours if at Customer's or a Listed Affiliate's or the Hosting Provider's facilities, and shall not unreasonably interfere with Customer's or the Hosting Provider's business activities (as applicable); and

6.3.3 if any such verification process determines that Customer's (including any Listed Affiliates') usage of the Product(s) exceeds the number of licences or other Usage Rights Customer has purchased, Customer shall:

(a) unless the Product Order or applicable Product Terms states otherwise, promptly place an order with Capita for (and Capita shall be entitled to invoice Customer for) at least the number of additional licences required for Customer and any Listed Affiliates to come into compliance with the Agreement. The price of each such licence will be at Capita's then current list price, calculated so as to cover the time period during which the licence should have been in effect to avoid any period of non-compliance, and bearing interest at the rate provided for in Section 8.5 below from the date when the licence subscriptions should

have been purchased to the actual purchase date; and

(b) reimburse Capita in full for the amount of costs incurred by Capita in undertaking such verification process.

Customer Obligations.

6.4 Without prejudice to any other obligations of Customer under the Agreement, Customer shall:

6.4.1 follow all reasonable instructions given by Capita from time to time with regard to the use of the Product(s) and any trade marks owned by Capita and other indications of the property and rights of Capita;

6.4.2 provide Capita with:

(a) all necessary co-operation in relation to the Agreement; and

(b) all necessary access to such information as may be required by Capita,

in order to enable Capita to discharge its obligations under the Agreement;

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

6.4.4 obtain and shall maintain all necessary licences, consents, and permissions necessary for Capita, its sub-contractors and agents to perform their obligations under the Agreement;

6.4.5 ensure that its network and Customer Systems comply with the relevant specifications provided by Capita from time to time;

- 6.4.6 be solely responsible for procuring and maintaining any network connections and telecommunications links from its Customer Systems to the Capita IT Systems, and all problems, conditions, delays, delivery failures and for all other loss or damage arising from or relating to Customer's network connections or telecommunications links or caused by the internet;
- 6.4.7 ensure that its personnel are adequately trained in the correct use of the Product(s) and are provided with first line technical support in connection with use of the Product(s);
- 6.4.8 comply with Capita's reasonable instructions concerning the use, modification, control, and testing of the Product(s) (including, where appropriate, operational and environmental conditions);
- 6.4.9 provide Capita, its employees, agents, consultants and subcontractors, with timely access to Customer Systems, Customer's personnel and Customer's Sites and other premises, office accommodation and other facilities (including those of any applicable Hosting Providers) as reasonably required by Capita to provide the Services;
- 6.4.10 provide Capita with all information reasonably requested by Capita from time to time relating to Customer's use of the Product(s), including information on Customer's hardware, network and systems; and
- 6.4.11 keep a complete and accurate record of the Customer's copying and disclosure of the Product(s) and its users (including all Authorised Users);
- 6.4.12 keep and maintain all materials, equipment, documents and other property of Capita ("**Capita Materials**") at Customer's premises in safe custody at its own risk, maintain the Capita Materials in good condition until returned to Capita, and not dispose of or use the Capita Materials other than in accordance with Capita's written instructions or authorisation. All Capita Materials are the exclusive property of Capita; and
- 6.4.13 provide parking for Capita's engineers when requesting onsite assistance.
- 6.5 If Customer becomes aware of any misuse of the Product(s), any Content or the Documentation, or any security breach in connection with the Agreement that could compromise the security or integrity of the Product(s), any Content or the Documentation or otherwise adversely affect Capita, Customer shall, at Customer's expense, promptly notify Capita and fully cooperate with Capita to remedy the issue as soon as reasonably practicable.
7. **SUPPORT SERVICES AND OTHER PROFESSIONAL SERVICES.**
- 7.1 Capita offers different levels of Support Services for its Products, as described in the Product Order (or applicable Product Terms). Support Services may be subject to separate charges. Customer grants (or shall procure the grant of) a licence to Capita to utilise such information, services, materials or assets of Customer to the extent required for the provision of any Support Services provided pursuant to the Product Order.
- 7.2 Where the Product Order specifies that Capita shall perform Professional Services, such Professional Services shall be deemed to be performed under and governed by the Agreement. Unless otherwise specified in the Product Order, Customer is responsible for installing and configuring Products for its use.
- 7.3 From time to time Capita may recommend its authorised resellers, partners and other third parties to Customer, or Customer may elect to have other third parties, to provide Customer certain professional services, such as installation, configuration, consulting, and training, in connection with the Product(s) ("**Third Party Services**"). If Customer chooses to procure Third Party Services, Customer acknowledges and agrees that Capita shall have no responsibility or liability for the performance of the Third Party Services by the Third Party Services provider, or for any

defect or failure of the Product(s) caused by the Third Party Services and Customer shall not be entitled to any reduction in fees for the Product(s) as a result thereof. Capita may deny access to the Product(s) to any Third Party Services provider which Capita reasonably determines poses a security or confidentiality risk to Capita's, or its other customers', systems, data or Intellectual Property Rights.

7.4 If there is a change in law and Customer notifies Capita that such change requires a change to a Product, then, upon request from Customer, Capita may, at its sole discretion and subject to agreement of a Product Order for Professional Services, agree to provide Professional Services to Customer for the purpose of discussing, agreeing and implementing any such changes.

7.5 Capita shall be entitled to use its general knowledge, skills and experience, and any ideas, concepts, know-how, formats, templates, methodologies and techniques that are acquired or used in the course of the provision of the Services under the Agreement.

7.6 Capita shall have no obligation to provide Support Services:

7.6.1 outside of any specified Support Hours;

7.6.2 if despite reasonable efforts by Capita, the problem cannot be replicated or otherwise identified;

7.6.3 for altered, damaged, misused or modified Products (other than such altered or modified Products as have been altered or modified in accordance with Capita's written directions to Customer);

7.6.4 for problems caused by Customer's and/or its Authorised User's negligence, hardware malfunction or breach of the Agreement;

7.6.5 for problems caused by issues that are outside of Capita's control (such as connectivity, network and band width

issues and issues with Third Party Services and Hosting Providers); or

7.6.6 in respect of faults that arise from (or their extent or impact is worsened by):

(a) failure to maintain the necessary environmental conditions and/or minimum equipment specifications for use of the Product(s) (if any) made available by Capita;

(b) use of the Product(s) in combination with any equipment or software not provided by Capita or not designated by Capita for use with the Product(s), or any fault in any such equipment or software;

(c) having the Product(s) maintained by a third party unless otherwise agreed in writing by Capita;

(d) any modification made to the Product by someone other than Capita;

(e) any design issues, data loading/interfaces and/or custom code changes caused by someone other than Capita; or

(f) in relation to Saal Products:

(i) changing the platform on which the Product runs, relocation of relevant equipment, re-hosting to new equipment or connection or interfacing of the Product with any with any other software (unless Capita performed the interfacing or interconnection); or

(ii) failure by Customer to install and run a Maintenance Release in accordance with the Agreement.

7.7 If Capita agrees to provide support where any circumstances in Section 7.6 above have arisen, Capita may charge additional fees for

such support. Such support shall be deemed to be Professional Services and shall be subject to Professional Services Terms and the Professional Services section in the Product Order.

7.8 If the Support Services for a Product expire or are terminated whilst the Usage Period for that Product continues, and Customer wishes to have such Support Services reinstated, Capita may apply reinstatement fees in addition to the standard fees for such Support Services.

7.9 Capita may, on prior notice to Customer, make changes to the Services, provided such changes do not have a material adverse effect on Customer's business operations.

8. **FEES AND TAXES.**

8.1 In consideration for the Usage Rights granted under the Agreement, Customer agrees to pay Capita the fees set forth in the Product Order (including any Licence Fees, Support Fees, Hosting Fees and Professional Services Fees).

8.2 All sums payable under the Agreement are exclusive of VAT or any relevant local sales taxes, for which Customer shall be responsible, and which shall be added to Capita's invoices at the appropriate rate.

8.3 Any payments made by or due from Customer under the Agreement shall be free and clear of all taxation whatsoever save only for any deductions or withholdings required by law. If any deductions or withholdings are required by law, Customer shall be liable under this Section 8.3 to pay to Capita such further sums as will ensure that the aggregate of the sums paid or payable under the Agreement shall, after deducting therefrom all deductions or withholdings from such sums, leave Capita with the same amount as it would have been entitled to receive in the absence of any such deductions or withholdings.

8.4 The Parties shall use commercially reasonable efforts to do all such acts and things and to sign all such documents as will enable them to minimise the amount of any withholding tax obligation. In the event there is no applicable double taxation

agreement or treaty, or if an applicable double taxation agreement or treaty reduces but does not eliminate such withholding or similar tax, the paying Party shall pay such withholding or similar tax to the appropriate government authority.

8.5 Unless otherwise set out in the Product Order or applicable Product Terms, all fees and expenses are to be paid to Capita in Pounds Sterling, by electronic transfer of funds to an account designated by Capita, or by such other means as Capita may agree to. Capita's invoices are due and payable in full within thirty (30) days from the date of the invoice. If Customer does not pay an undisputed Capita invoice in full within thirty (30) days after the invoice date, in addition to any other rights or remedies of Capita, whether at law, in equity or under the Agreement (including, without limitation, Capita's rights to terminate the Agreement), Capita may:

8.5.1 add an interest charge to the outstanding balance at the rate of four percent (4%) per annum above Barclays Bank Plc's current base rate from time to time; this interest will begin to accrue on the day after the payment due date and will accumulate on the outstanding balance on a daily basis until paid in full;

8.5.2 if such failure continues for fourteen (14) days following written notice thereof, suspend performance of Services and/or, where applicable, access to SaaS Products until all past due amounts and interest thereon have been paid, without incurring any obligation or liability to Customer or any other person by reason of such suspension; and

8.5.3 in respect of SaaS Products that are hosted by Customer or a Hosting Provider appointed by Customer, repossess any Restricted Item and the Customer irrevocably agrees to allow, or shall procure the right for, Capita to enter the premises at which the Restricted Items are located for such purpose.

An invoice shall not be deemed disputed unless Customer is acting in good faith and has raised a bona fide dispute in relation to such invoice.

- 8.6 All invoices issued to Customer pursuant to the Agreement shall be transmitted electronically to Customer, and Customer hereby acknowledges and agrees to the sufficiency of receiving such invoices electronically.
- 8.7 Unless explicitly stated otherwise in the Product Order or applicable Product Terms, Capita may, at its sole discretion and with effect from each anniversary of the Agreement Effective Date, increase the then current fees under the Product Order (including any Licence Fees, Support Fees, Hosting Fees and/or any Professional Services rates) by a percentage equal to the average percentage increase in the Retail Price Index published by the Office for National Statistics (or its replacement index) during the twelve (12) month period preceding the date of notice of the adjustment, provided that the rate of increase shall always be zero percent (0%) or greater. Any such increase shall be notified to Customer at least sixty (60) days prior to the date any fee adjustment takes effect.

9. **CONFIDENTIALITY.**

- 9.1 Each Receiving Party recognises and agrees that the Confidential Information of the Disclosing Party is critical to the Disclosing Party's business and that neither Party would enter into the Agreement without assurance that such information and its value will be protected as provided in this Section 9 and elsewhere in the Agreement. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall:
- 9.1.1 not access or use, or permit the access or use of, Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with the Agreement;
- 9.1.2 not use or permit the use of any of the Disclosing Party's Confidential Information, directly or indirectly, in

any manner to the detriment of the Disclosing Party or to obtain any competitive advantage over the Disclosing Party;

- 9.1.3 except as may be permitted by and subject to its compliance with Section 9.1.6 below, not disclose or permit access to Confidential Information other than to its personnel and professional and legal advisers ("**Representatives**") who:
- (a) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with the Agreement;
- (b) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Section 9; and
- (c) are bound by written confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 9;
- 9.1.4 safeguard the Confidential Information from unauthorised use, access, or disclosure using at least the degree of care it uses to protect its similarly sensitive information and in no event less than a reasonable degree of care;
- 9.1.5 ensure its Representatives' compliance with, and be responsible and liable for any of its Representatives' noncompliance with, the terms of this Section 9; and
- 9.1.6 notify the Disclosing Party in writing promptly of any unauthorised disclosure or use of the Disclosing Party's Confidential Information and cooperate with the Disclosing Party to protect the confidentiality and ownership of all Intellectual Property Rights, privacy rights, and other rights therein.

- 9.2 Confidential Information does not include information that the Receiving Party can demonstrate by written or other documentary records:
- 9.2.1 was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information being disclosed or made available to the Receiving Party in connection with the Agreement;
 - 9.2.2 was or becomes generally known by the public other than by the Receiving Party's or any of its Representatives' noncompliance with the Agreement;
 - 9.2.3 was or is received by the Receiving Party on a non-confidential basis from a third party that was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or
 - 9.2.4 was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.
- 9.3 If the Receiving Party or any of its Representatives are required to disclose the Disclosing Party's Confidential Information in response to a valid order of a court or other valid governmental or regulatory authority of competent jurisdiction, the Receiving Party agrees to give the Disclosing Party reasonable advance notice of the required disclosure (if legally permitted to do so) in order to afford the Disclosing Party a reasonable opportunity to contest the disclosure or seek a protective order, and the Receiving Party agrees to reasonably cooperate with the Disclosing Party's efforts.
- 9.4 The Receiving Party's obligations of confidentiality shall apply with respect to any particular Confidential Information of the Disclosing Party while any copy of it remains in the Receiving Party's possession or control, and thereafter for a period of two (2) years.
- 9.5 Upon the termination of the Agreement, the Receiving Party will cease all use of the Disclosing Party's Confidential Information in the form originally furnished and destroy it or, at the Disclosing Party's direction and expense, return it to the Disclosing Party.
- 9.6 Notwithstanding anything to the contrary in this Section 9, Capita may:
- 9.6.1 include Customer's name on Capita's customer list and may describe in general terms the nature of the services provided by Capita to Customer; and
 - 9.6.2 disclose Customer's Confidential Information and the contents of the Agreement with its Affiliates and any purchaser or potential purchaser of all or substantially all the assets or shares of Capita, provided such purchaser or potential purchaser has been informed of the confidential nature of the Confidential Information and is bound by written confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 9.
10. **REPRESENTATIONS AND WARRANTIES.**
- 10.1 Each Party represents to the other Party that:
- 10.1.1 it has all necessary power and authority to enter into the Agreement; and
 - 10.1.2 the Agreement, when executed and delivered, will constitute a valid and binding obligation of such Party and will be enforceable against such Party in accordance with its terms.
- 10.2 Capita warrants that the SaaS Product(s) (excluding any Maintenance Releases and New Versions made available to Customer from time to time, which shall not benefit from the warranty set forth in this Section 10.2, but which shall be supported in accordance with any applicable Support Services that Capita has agreed to provide to Customer pursuant to a Product Order) will perform in accordance with their respective Documentation in all material respects for thirty (30) days following delivery. The warranty shall not apply:

10.2.1 if the SaaS Product is not used in accordance with the Documentation;

10.2.2 if the defect is caused by:

- (a) a modification (other than a modification provided by Capita);
- (b) Customer; or
- (c) third party software;

10.2.3 to any Customer unlicensed activities; or

10.2.4 if the defect is caused by a failure by Customer to install and run a Maintenance Release in accordance with the applicable Product Terms.

Provided Customer notifies Capita in writing with a specific description of the SaaS Product's non-conformance within the warranty period referenced above and Capita validates the existence of such non-conformance, Capita's sole obligation and Customer's exclusive remedy will be for Capita to use reasonable efforts to correct the failure of the affected SaaS Product to operate as warranted, at no charge to Customer. If Capita is unable to cure a breach of this warranty after using reasonable commercial efforts, Customer's exclusive remedies will be to terminate its licence for the affected SaaS Product in accordance with Section 11.1.3(a) below, and receive a refund of any unused prepaid fees received for such Product less an amount that reflects Customer's use and benefit derived from the Product prior to the date of such termination assuming a useful life of five (5) years).

10.3 Capita warrants that it will perform the Support Services in a professional and workmanlike manner consistent with generally accepted industry practices.

10.4 Capita warrants that, in respect of any Professional Services provided by Capita under the Agreement, the relevant Deliverables will conform in all material respects with the descriptions set forth in the Product Order. Provided Customer notifies Capita in writing with a specific

description of any non-conformity of the Deliverables in breach of the warranty set out in this Section 10.4 within thirty (30) days of delivery of the applicable Deliverables, Capita's sole obligation and Customer's exclusive remedy will be for Capita to re-perform such deficient Professional Services in order to provide conforming Deliverables, and if Capita then fails again to provide the Deliverables as warranted, Customer, as its exclusive remedy, shall be entitled to recover the fees paid to Capita for such non-conforming Deliverables.

10.5 Customer assumes all risks associated with its selection and use of the Product(s), Documentation, Deliverables and Content to meet its needs. Customer acknowledges that it is solely responsible for the results obtained from use of the Product(s), Documentation, Deliverables or Content, including the completeness, accuracy, and content of such results, and the conclusions drawn from such use. Capita does not represent or warrant that the Product(s), Documentation, Deliverables or Content will meet the requirements or business needs of Customer or its Listed Affiliates, that the Products', Documentation's, Deliverables' or Content's operation will be uninterrupted or error-free, or that all defects will be corrected. Except as expressly provided in the Agreement, to the maximum extent permitted by applicable law, all warranties, representations, conditions or other terms which might have effect between the Parties or be implied or incorporated into the Agreement, whether by statute, common law or otherwise, are hereby excluded, including the implied conditions, warranties or other terms as to satisfactory quality, fitness for particular purpose or the use of reasonable care and skill. Capita excludes all liability and indemnification obligations for any harm or damage caused by any Hosting Providers or by any other providers of Third Party Services or Content.

10.6 Customer warrants, represents and undertakes to Capita that:

10.6.1 it (or the applicable Customer Group Member) has all rights and licenses necessary for it to grant the licences set forth in the Agreement and to

submit, post or display the Customer Data on the Product(s); and

10.6.2 the hosting and display of such Customer Data by Capita (or any third party on behalf of Capita) shall not infringe the Intellectual Property Rights or any other rights of a third party.

which breach is irremediable or (if such breach is remediable) where Capita fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so; or

(b) if an Insolvency Event affecting Capita occurs.

11. **USAGE PERIODS AND TERMINATION.**

11.1 Unless otherwise agreed to by the Parties in writing, the Agreement and the Usage Rights it grants will terminate or may be terminated as follows:

11.1.1 The Usage Rights to any particular Products will expire automatically at the end of the applicable Usage Period if not renewed in accordance with the Agreement.

11.1.2 In addition to any termination rights Capita may have under the Product Order, the applicable Product Terms and Section 3.4, Capita may terminate the Agreement (in whole or in part) for cause:

(a) if Customer commits a material breach of the Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so;

(b) Customer fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than thirty (30) days after being notified in writing to make such payment; or

(c) if an Insolvency Event affecting Customer occurs.

11.1.3 Customer may terminate the Agreement for cause:

(a) upon thirty (30) days' written notice to Capita of a material breach of the Agreement relating to the Product(s) or Services

11.2 Without prejudice to the Parties' other rights under the Agreement, where the Product Order has a Usage Period, Support Period, Hosting Period or any other period during which services are provided by Capita to Customer ("**Relevant Period**") that automatically renews at the end of the initial or any renewal period of such Relevant Period, either Party may terminate the applicable Relevant Period at the end of the initial period or then current renewal period (as applicable) of such Relevant Period by providing not less than thirty (30) days' notice to the other Party prior to the end of the initial or then current renewal period (as applicable) of such Relevant Period.

11.3 Where Capita has a right to terminate the Agreement, Capita may, at its option, elect to terminate only a particular category or categories of Services. Where Capita elects to terminate only a particular category or categories of Services, such partial termination shall not automatically affect the continuation of the Usage Rights for the applicable Product(s) for the remainder of the applicable Usage Period.

11.4 Termination of the Agreement does not free either Party from its obligations to comply with all terms of the Agreement that contemplate performance prior or subsequent to the termination date and shall not prejudice any rights of either Party which have arisen on or before the date of termination.

11.5 Other than as set out in Section 11.1 above or as otherwise specified in the Product Order or applicable Product Terms, the Agreement will be non-cancellable by Customer and the associated fees will be non-refundable.

11.6 On termination of the Agreement (or part thereof):

11.6.1 all applicable Usage Rights granted to Customer shall cease, unless such Usage Rights have been granted on a perpetual basis;

11.6.2 all applicable Services shall cease;

11.6.3 Customer will immediately cease to use or access the applicable Product(s) and will promptly uninstall and securely erase all copies so that they cannot be recovered. Upon request by Capita, Customer will certify in writing that it has done so;

11.6.4 Customer shall immediately pay to Capita any applicable sums due to Capita;

11.6.5 each Party shall return and make no further use of any equipment, property, documentation and other items (and all copies of them) relating to the applicable Product(s) and/or Services and belonging to the other Party, save that Customer may retain a copy of Documentation relating to any Products for which Customer has perpetual Usage Rights;

11.6.6 Capita may destroy or otherwise dispose of any of Customer Data in its possession relating to the applicable Product(s) and/or Services, unless Capita receives, no later than ten (10) days after the effective date of the termination, a written request for the delivery to Customer of the then most recent back-up of Customer Data. Capita shall use reasonable commercial endeavours to deliver the back-up to Customer within thirty (30) days of its receipt of such a written request, provided that Customer has, at that time, paid all applicable fees and charges outstanding at, and resulting from, termination (whether or not due at the date of termination). Customer shall pay all reasonable expenses incurred by Capita in returning or disposing of Customer Data; and

11.6.7 Customer shall return all of the Capita Materials and any hardware relating to the applicable Product(s) and/or

Services which have not been fully paid for. If Customer fails to do so, then Capita may enter Customer's premises and take possession of them. Until they have been returned, Customer shall be solely responsible for their safe keeping and will not use them for any purpose.

12. **LEGAL COMPLIANCE.**

12.1 Each Party covenants that it will perform all activities under or pursuant to the Agreement in accordance with all applicable legal requirements.

12.2 Without limiting the generality of Section 12.1 above, Customer represents and warrants that it will cause all personnel who will be given access to the Product(s), Documentation, Deliverables or Content to be familiar with all applicable Laws relating to bribery and corruption, including the UK Bribery Act 2010, and Customer represents and warrants to Capita that Customer and such personnel will not violate any such laws in connection with their activities under or relating to the Agreement, and that they will take no actions on behalf of or in relation to Capita or the Product(s), Documentation, Deliverables or Content that would subject Capita to liability under any such laws.

13. **INTERPRETATION AND DISPUTES.**

13.1 The 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 and construed in accordance with the law of England and Wales.

13.2 The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims).

13.3 Other than variations made in accordance with Paragraph 2 of Part G of the Product Order, no variation of the Agreement shall be effective unless it is in writing and signed by the duly authorised representatives of both Parties.

- 13.4 Before the Parties resort to litigation to solve any dispute, the Parties agree to schedule a mandatory meeting either remotely (for example, via teleconference) or at a mutually agreeable location, within ten (10) days of the date a Party gives notice of the dispute to the other Party, which meeting will be attended by a senior official of each Party. At that meeting, each Party will present its side of the dispute, and the senior officials will enter into good faith negotiations in an attempt to resolve the dispute. In the event the matter is not so resolved at such meeting or if the meeting does not take place within ten (10) days of the date a Party gives notice of the dispute to the other Party, the Parties reserve all applicable rights and remedies under the Agreement or available at law or in equity. Nothing in this Section 13.4 shall prevent Capita from seeking any interim or interlocutory relief.
- 13.5 If any provision or part provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but shall not affect the validity and enforceability of the other provisions of the Agreement. If any provision or part provision of the Agreement is deemed deleted under this Section 13.5 the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 13.6 Any term or condition of the Agreement which expressly or by implication is required for the interpretation of the Agreement or necessary for the full observation and performance by each Party of all rights and obligations arising prior to the date of expiration or termination shall survive the expiration or termination of the Agreement for any reason.
14. **GENERAL.**
- 14.1 The relationship of the Parties under the Agreement is that of independent contractors. Nothing in the Agreement is intended to, or shall be deemed to, make Capita and Customer partners, joint venturers or otherwise associated in or with the business of the other. Neither Party is authorised to incur debts or other obligations of any kind on the part of or as agent for the other, or to make or enter into any commitments for or on behalf of the other Party.
- 14.2 Customer may not assign, delegate, or transfer the Agreement, in whole or in part, or any of its rights or duties hereunder without the written consent of Capita. For the purposes of the preceding sentence, and without limiting its generality, any merger, consolidation, or reorganisation involving Customer (regardless of whether Customer is a surviving or disappearing entity) will be deemed to be a transfer of rights, obligations, or performance under the Agreement for which Capita's prior written consent is required. No assignment, delegation, or transfer will relieve Customer of any of its obligations or performance under the Agreement. Any attempted assignment, delegation or transfer by Customer in violation of this Section 14.2 is void. The Agreement shall be binding upon, and shall inure to the benefit of, the Parties and their respective successors or permitted assigns.
- 14.3 Capita may at any time assign, delegate, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement.
- 14.4 All notices and other communications required or permitted hereunder must be in writing and sent to the addresses set out in the Product Order and will be deemed to have been duly given:
- 14.4.1 when delivered by hand with a copy provided by another means specified in this Section 14.4;
- 14.4.2 one (1) day after delivery by receipted overnight delivery; or
- 14.4.3 three (3) days after being posted by certified or registered post, proof of postage requested, with postage prepaid to the Party at the address set forth in the Product Order, or to such address as either Party shall furnish to the other Party in writing, pursuant to this Section 14.4.
- 14.5 No failure or delay by a Party to exercise any

- right of remedy provided under the Agreement or by law shall constitute a waiver of that or any other rights 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.
- 14.6 Neither Party shall be in breach of the Agreement nor liable for failure or delay in the performance of its obligations hereunder as a result of a force majeure event, such as fire, explosion, act of nature, strikes, war, riot, government regulation or act or any other cause beyond the reasonable control of such Party, provided that:
- 14.6.1 the affected Party and its representatives and agents are without fault in causing or failing to prevent the force majeure event;
- 14.6.2 the affected Party gives the other Party prompt written notice of the force majeure event and uses its best efforts to overcome or circumvent it, including through the use of commercially reasonable alternative sources, workaround plans or other means; and
- 14.6.3 the affected Party continues to use its best efforts to perform whenever and to whatever extent is possible under the circumstances and notifies the other Party promptly when the force majeure event has abated.
- 14.7 Each Party will do and execute, or arrange for the doing or executing of, each necessary act, document and thing that is reasonably necessary to give effect to any of the Parties' rights under the Agreement.
- 14.8 Except as expressly provided in the Agreement, all rights, remedies and powers of the Parties hereunder are irrevocable and cumulative, and not alternative or exclusive, and shall be in addition to all other rights, remedies and powers to which it may be entitled by law.
- 14.9 The captions and headings used in the Agreement are used for convenience only and are not to be given any legal effect.
- 14.10 A person who is not a Party to the Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement, except for an Affiliate of Capita or a Listed Affiliate of Customer for the purpose only of enforcing its rights under the indemnities in the Agreement granted in its favour. The rights of the Parties to rescind or vary the Agreement are not subject to the consent of any other person.
- 14.11 Subject to the limits of liability set out in the Product Order, each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Agreement. Customer further agrees that its purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Capita regarding future functionality or features.
- 14.12 Save as explicitly stated elsewhere in the Agreement, in the event of a conflict or inconsistency between the provisions of the components of the Agreement, then the following order of precedence shall apply: (
- 14.12.1 the Product Order's terms and conditions shall take precedence over any other component of the Agreement; then
- 14.12.2 the Product Terms; then
- 14.12.3 the Professional Services Terms; and then
- 14.12.4 the Master Terms.