Software Licensing, Installation, Support & Maintenance Agreement

Terms & Conditions

Folding Space innovates, develops, markets, delivers, deploys, supports and maintains various software solutions and services that address the data, document, file and record *discovery*, *analytics* and *management* needs of its customers.

Folding Space is the owner and has the right to license to others its software solutions, services and related documentation ("product").

These **Terms & Conditions** accompany the Folding Space **'Customer Quotation(s)'** and **'Service Level Agreement'** with the Customer which signifies the acceptance of these Terms & Conditions by the Customer.

Consequently, Folding Space authorises the use of the software solution and services by the Customer as set out in the Terms & Conditions below:

1. INTERPRETATION AND DEFINITIONS

In this document, unless the context otherwise requires:

Folding Space or **Company** means Microports.Net Limited trading as 'Folding Space' whose registered office is at 5 Technology Park, Colindeep Lane, London, NW9 6BX.

Customer means the end user organisation that will purchase and utilise the software solution and services supplied by the Company as signified in Schedule A ('Customer Quotation').

End-User means employees of the Customer authorised to use the Folding Space product.

Software Solution or **Software** means the assembly of licensed software components, program code, data, operations and all associated materials and media owned and maintained by the Company for use by the Customer as defined in the Customer Quotation.

Product or **Products** means Folding Space software, services and related documentation as well as any provision of designated equipment or online services or similar to the Customer by the Company for the purpose of hosting the Folding Space software solution.

Professional Services means all Company resource, time & materials and expertise to provide all necessary software development, customisation or tailoring plus set-up, configuration & testing as well as full system assembly, installation, testing & handover plus Consultancy, Training & Project Management as appropriate to the Customer requirements.

Customer Quotation or **Quotation** is the confirmation of the specific software and services to be provided to the Customer by the Company. This includes the scope of work to be undertaken, the Folding Space product to be supplied, the Professional Services to be provided and the costs to be charged. This may comprise multiple Quotations over the period of engagement with the Customer as new or additional requirements emerge and are mutually agreed.

Cost Charge or **Charge** or **Cost** means the price levied by the Company for its products to be paid by the Customer as cited in the Customer Quotation.

Commencement Date or **Commencement** is the date of authorisation from the Customer to the Company to initiate supply of the agreed software solution with that authorisation contained in a Customer Purchase Order or confirmation in writing by email or letter.

Duration means the period of time during which the software solution can be used by the Customer; effectively, from commencement until termination.

Renewal Anniversary means the date calculated for Annual Renewal being every twelve months from the commencement date.

Installation means the implementation of the software solution onto the Designated Equipment by the Company to enable access and usage of the software solution by the Customer.

Designated Equipment means the combination of **hardware** (e.g. Server) and **operating system** (e.g. Microsoft Windows) and **DBMS** (e.g. Microsoft SQL, MySQL) wherein which the Folding Space software solution will be installed for use by the Customer. Designated Equipment may derive from various 'delivery options' such On-Premise, Co-Location, Cloud, SaaS or Managed Hosting or any similar or alternative provision approved by the Company and supplied by the Company or Customer.

o **On-Premise** is where the software solution is installed onto Designated Equipment being supplied and hosted within the Customers in-house IT environment.
o **Co-Location** is where the software solution is installed onto Designated Equipment being provided by the Company but hosted within the Customers in-house IT environment.
o **Managed Hosting Service** is where the software solution is installed, managed and maintained on behalf of the Customer using the Company hosted IT environment and made securely available for online access and use by the Customer.
o **Cloud** is where the software solution is installed into a 3rd Party Cloud Service environment (e.g. Amazon AWS, Microsoft Azure) contracted by the Company or Customer
o **SAAS or Software-As-A-Service** means the managed provision of the software solution to the Customer by the Company via online means.

Service Level Agreement or **SLA** is the confirmation that the software maintenance and system support provided by the Company to the Customer will be effectively managed and includes all relevant response commitments, accountability and operational procedures to ensure continuing fitness for purpose of the software solution and services being supplied.

Intellectual Property Rights or IPR means all inventions, patents, registered designs, design rights, database rights, copyrights, know-how, trade and service marks, trade secrets and all other intellectual property rights including source and program code, database, moral rights, know-how, confidential information, trade or business names for any of the same and any rights or forms of protection of a similar nature and having equivalent or similar effect to any of them which may subsist anywhere in the world.

Third Party Software means any proprietary or open source software not being owned by the Company that is supplied under license to the Customer by the Company in connection with the delivery of the Folding Space software solution and any software supplied by the Customer operating on the Designated Equipment.

2. GRANT OF SOFTWARE LICENSE

2.1 The Company grants to the Customer a non-exclusive annually renewable license to enable the Customer to use the Software upon the Designated Equipment subject to the Terms & Conditions herein.

2.2 Any cost charges for the provision and subsequent renewal of the Software Licenses, System Support and Software Maintenance must be fully satisfied by the Customer within the timeframe cited in the Customer Quotation and under section 7 herein.

2.3 Any cost charges for the provision of Co-Location, Managed Hosting, Cloud or SaaS services supplied by the Company must also be fully satisfied by the Customer within the timeframe cited in the Customer Quotation and under section 7 herein.

2.4 The Software may not be used for the operation of any online service or similar activity for the benefit of third parties; nor be the subject of any patent or patent application or any other form of application or registration for intellectual property protection.

3. OWNERSHIP AND IPR

3.1 The Software is protected by copyright laws and international copyright treaties as well as other intellectual property laws and treaties. All Intellectual Property Rights in or relating to the Software are and shall remain the property of the Company.

3.2 Neither the Customer nor any of their subsidiary or associated companies nor any Third Party retained or sponsored by the Customer may copy, reverse engineer, decompile, disassemble or seek to duplicate the Software, except and only to the extent that such activity is expressly permitted by applicable law.

3.3 If the Customer seeks to undertake any activity described in clause 3.2 in exercise of claimed or perceived legal rights, then the Customer must first give the Company ninety (90) days' notice in writing of their intention to undertake such action.

4. ORDER ACCEPTANCE

4.1 All orders placed with the Company by the Customer for the Software Solution shall constitute an offer to the Company under these Terms & Conditions subject to availability of the Software Solution and to acceptance of the order by the Company.

4.2 A Customer Order to the Company means the issuing by the Customer of a Purchase Order or confirmation in writing (by email or letter) from an authorised representative of the Customer that the Company is authorised to initiate supply of the agreed software solution.

4.3 All Customer Orders are accepted and the Software Solution supplied subject to these express Terms & Conditions only. No amendment to these Terms & Conditions will be valid unless expressly confirmed in writing by the Company to the Customer.

4.4 It is agreed that these Terms & Conditions prevail over any Customer Terms & Conditions of purchase.

5. COMMENCEMENT, DURATION & ANNIVERSARY

5.1 This Agreement shall commence on the date signified within the Customer order as per clause 4.2 preceding and shall continue thereafter until terminated by either party as per section 18 herein.

5.2 The anniversary of this Agreement is every 12 (twelve) months from the commencement date cited in clause 5.1 above.

6. COST CHARGES

6.1 The cost charges to be paid by the Customer for the Software Solution, including Master Software Licenses and Professional Services plus Annual Renewals for the Software Licenses, System Support & Software Maintenance are cited in the Customer Quotation. These cost charges may, in whole or in part, be expressed in terms of an amortised charge or spread payment or similar over time but again, as confirmed in the Customer Quotation.

6.2 The cost charges to be paid by the Customer for provision of any Co-Location, Managed Hosting, Cloud or SaaS services supplied by the Company are cited in the Customer Quotation. These cost charges may, in whole or in part, be expressed in terms of an amortised charge or spread payment or similar over time but again, as confirmed in the Customer Quotation.

6.3 All cost charges are exclusive of VAT and any similar taxes. All such taxes are payable by the Customer and will be applied by the Company in accordance with UK legislation in force at the tax point date.

6.4 Unless otherwise agreed in writing with the Customer, the Company reserves the right to change its standard 'rate card' cost charges from time to time and will inform the Customer in writing at least 30 days prior to any change.

7. INVOICING AND PAYMENT

7.1 Invoicing by the Company and subsequent Payment by the Customer in regard to any charges for the Software Solution, including Master Software Licenses and Professional Services plus Annual Licenses Renewal, System Support & Software Maintenance shall be made by means agreed in writing between the Customer and the Company as confirmed in the Customer Quotation.

7.2 Invoicing by the Company and subsequent Payment by the Customer for provision of any Co-Location, Managed Hosting, Cloud or SaaS services supplied by the Company shall be made by means agreed in writing between the Customer and the Company as confirmed in the Customer Quotation.

7.3 Unless otherwise agreed by the Company, payment of a Company Invoice by the Customer is thirty (30) days from the date of the invoice.

7.4 Unless otherwise agreed by the Company, the standard policy for Invoicing and Payment of the Master Software License Fees and Professional Services Charges is a division into three invoices and payments; namely, 50% of the total charge upon project commencement (defined as the receipt of the Customer Order as per clause 4.2) followed by 35% of the total charge upon completion of project development and then 15% of the total charge upon installation. Thereafter, for Annual Licenses Renewal, System Support & Software Maintenance charges, Invoicing and Payment is 90 days prior to the renewal anniversary date which is defined in section 5 preceding.

7.5 Alternatively, to clause 7.4 above, the cost charges, in whole or in part, may be expressed in terms of an amortised charge or spread payment or similar over time which will be incorporated into Invoicing and Payment as appropriate and as agreed in writing between the Customer and the Company as confirmed in the Customer Quotation.

7.6 Unless otherwise agreed by the Company, the standard policy for Invoicing and Payment by the Customer for cost charges regarding the provision of any Co-Location hardware and software supplied by the Company is prior to the installation of the relevant hardware and software within the Customers in-house IT environment.

7.7 Invoicing and Payment by the Customer for cost charges regarding the provision of Managed Hosting, Cloud or SaaS services supplied by the Company is agreed in writing between the Customer and the Company as confirmed in the Customer Quotation. These cost charges may be expressed in terms of an amortised charge or spread payment or similar over time.

7.8 If any payment to be made hereunder is not received by the due date then, without prejudice to the Company's other rights and remedies and at the discretion of the Company;

7.8.1 the Customer shall suspend all usage of the Software Solution until payment is received;

7.8.2 the Company may at its discretion declare this dereliction a Termination Event as per section 18 excepting that clause 18.1.2 shall not apply; that is, this clause 7.8.2 takes precedence over clause 18.1.2.

8. SOFTWARE PROPRIETORY RIGHTS

8.1 No title or ownership of the Software Solution or any Third-Party Software licensed or supplied by the Company to the Customer is transferred to the Customer under any circumstances.

8.2 The Customer hereby acknowledges that it is their sole responsibility to comply with any Terms & Conditions of license attaching to any Third-Party Software supplied and delivered by the Company or the Customer on the Designated Equipment (Customer provided or Co-Location but not Managed Hosting, Cloud or SaaS services), including if so required the execution and return of a Third Party Software license, and agrees to do so.

8.3 The Customer is hereby notified that failure to comply with such Terms & Conditions could result in the Customer being refused a software license or having the same revoked by the proprietary owner.

8.4 The Customer further agrees to indemnify the Company in respect of any costs, charges or expenses incurred by the Company at the suit of a Third-Party Software owner as a result of any breach by the Customer of such conditions.

9. INSTALLATION

9.1 The Company will install the Software onto the Designated Equipment and ensure that the Software runs within its normal operating parameters and that is fit for the purpose as agreed between the Company and the Customer subject to the provisions in Clause 14.1.2 hereafter.

9.2 The Customer acknowledges that the actual running operations of the Software are affected by the hardware specification of the Designated Equipment and the technical constraints of the Customer's infrastructure and network. Similarly, if the Software Solution is being supplied as a Managed Hosting, Cloud or SaaS service then the Customer acknowledges that the actual running operations of the Software are affected by the Customer's internet connectivity and the performance and availability of Internet services and operations.

10. MAINTENANCE AND SUPPORT

10.1 Unless otherwise agreed by both parties, during the first 12 (twelve) months from the date signified in the Customer Order as per clause 4.2 preceding, all necessary maintenance of the Software (program code improvements, program code bugs, installation stability and program integrity) will be carried out by the Company at the Company's expense either remotely or onsite at the Company's discretion.

10.2 Unless otherwise agreed by the Company, for the second 12 (twelve) months from the date signified in the Customer Order as per clause 4.2 preceding, and for every twelve 12 (twelve) months thereafter, the Company will continue to perform all necessary maintenance of the Software as in clause 10.1 above but at the expense of the Customer as signified in the Customer Quotation but subject to the provisions set out in clause section 7 preceding.

10.3 Alternatively, as variously cited herein, any charges for system support or software maintenance may be expressed in terms of amortised or spread payments over time as agreed between the Customer and the Company.

10.4 In all cases, system support and software maintenance and any associated charges provided by the Company to the Customer are as per the Customer Quotation.

11. CONFIDENTIALITY BETWEEN BOTH PARTIES

11.1 Neither the Company nor the Customer shall use or divulge or communicate to any person (other than those whose province it is to know the same or as permitted or contemplated by this Agreement or with the written authority of the other party or as may be required by law) any confidential information concerning the Software Solution or other party's customers, business, accounts, finance or contractual arrangements or other dealings, transactions, or affairs of the other party and its subsidiaries which may come to the first party's knowledge during the continuance of this agreement.

12 RESERVATION OF RIGHTS

12.1 The Company reserves the right to make modifications or additions to the Software Solution in any way whatsoever as the Company may in its discretion determine albeit the Customer will be consulted prior to any exercise of such rights.

13 LEGAL RELATIONSHIP

13.1 The relationship of the Company with the Customer is that of seller and buyer and nothing in this Agreement shall render the Customer a partner or agent of the Company unless otherwise agreed in writing by the Company.

13.2 The Software and its Licenses are provided on a per Designated Equipment basis and are not transferable by the Customer to any other equipment or to any other party without the written consent of the Company which shall not be unreasonably withheld.

13.3 In the event that the Company consents to a transfer as per clause 13.2 above, the Company reserves the right to levy a cost charge for such to the Customer which shall be agreed in writing by the Customer prior to the event of transfer

14. WARRANTIES

14.1 Subject to the exceptions set out in clause 14.4 following and the limitations upon its liability in section 15 hereafter, the Company warrants that:

14.1.1 Its title to any property in the Software Solution is free and unencumbered and that it has the right, power and authority to license the same upon these Terms;

14.1.2 The Software and Installation will conform to the Customer Quotation and that the Software upon installation and for 90 (ninety) days thereafter will be free from defects in materials, design and workmanship.

14.2 The Customer shall give notice to the Company as soon as it is reasonably able upon becoming aware of a breach of warranty.

14.3 Subject to clause 14.4 following the Company will use all reasonable endeavours to remedy any breach of the warranties set out in clause 14.1 free of charge by diagnosing the fault and using all reasonable endeavours to rectify the fault (remotely or by attendance onsite as determined by the Company), or of program fixes in respect of the Software and the making of all necessary consequential amendments (if any) to the Installation.

14.4 The Company shall have no liability to remedy a breach of warranty where such breach arises as a result of:

14.4.1 The improper use, operation or neglect of either the Software or the Designated Equipment (Customer or Co-Location installation but not Company supplied Managed Hosting, Cloud or SaaS services); or

14.4.2 The modification of the Software or its merger (in whole or in part) with any other software; or

14.4.3 The use of the Software on equipment other than the Designated Equipment (Customer or Co-Location installation but not Company supplied Managed Hosting, Cloud or SaaS services); or

14.4.4 The failure by the Customer to implement recommendations in respect of or solutions to faults previously communicated by e-mail or in written form or via the Folding Space Customer Support Portal to the Customer by the Company; or

14.4.5 Any repair, adjustment, alteration or modification of the Software by any person other than the Company or without the Company's prior written consent; or

14.4.6 Any breach by the Customer of any of its obligations under any maintenance agreement in respect of the Designated Equipment (Customer or Co-Location installation but not Company supplied Managed Hosting, Cloud or SaaS services); or

14.4.7 The use of the Software for a purpose for which it was not designed.

14.5 The Company provides all software hereunder on an "as is" and "where is" basis and makes no other express warranties, written or oral, and all other warranties are specifically excluded, including but not limited to, the implied warranty of merchantability, fitness for a particular purpose or non-infringement, and any warranty arising by statute, operation of the law, course of dealing or performance or usage of trade.

14.6 Without prejudice to the foregoing the Company does not warrant that the use of the Software will meet the Customer's data processing requirements or any specific purpose or that the operation of the Software will be uninterrupted or error free.

14.7 Subject to the foregoing all conditions, warranties, terms and undertakings express or implied statutory or otherwise in respect of the Software Solution are hereby excluded to the fullest extent permitted by law.

15. LIMITATION AND EXCLUSION OF LIABILITY

15.1 Neither party excludes or limits its liability for:

15.1.1 Death or personal injury caused by negligence; or

15.1.2 Any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982: or

15.1.3 Fraudulent misrepresentation.

15.2 Subject to the following provisions of this section 15 or to any other express provisions relating to liability contained in these Terms & Conditions the liability of the Company or that of any of its employees, agents, distributors or sub-contractors for any act or default in relation to these Terms & Conditions whether in contract, tort (including negligence), strict liability or otherwise shall be limited for any one event or series of connected events to the price levied to the Customer for Year Two charges (Annual Renewal) for the Software Licenses portion as signified in the Customer Quotation or in the case of Managed Hosting, Cloud or SAAS services provision by the Company, to the charge made to the Customer for three months of service.

15.3 No liability shall attach to the Company for any loss (or associated expenses) in the nature of:

15.3.1 Loss of profits, loss of revenue, loss of production or loss of use;

15.3.2 Loss of goodwill or reputation;

15.3.3 Third party claims;

15.3.4 Other indirect, special or consequential losses as generally understood under English Law;

15.3.5 Whether foreseeable or otherwise and whether or not the Company had been made aware of the possibility of the same arising.

15.4 The Company will not be liable to the Customer for loss arising from or in connection with any representation, agreement, statement or undertaking made before the parties entered into the Agreement on these Terms other than those representations, agreements, statements or undertakings confirmed by duly authorised representatives of the Company in writing or expressly incorporated or referred to in these Terms & Conditions or the Service Level Agreement or Customer Quotation. The Customer expressly represents that it is not relying upon (and therefore shall have no remedy in respect of) any such representation, agreement, statement or undertaking other than as expressly set out or referred to in these Terms. These Terms constitute the whole agreement and understanding of the parties as to their subject matter and there are no terms, conditions, warranties or obligations whether oral or written, express or implied, whether by statute or common law, other than those contained in or referred to in these Terms. Nothing in these Terms & Conditions shall limit the Company's liability for fraudulent misrepresentation.

15.5 Advice or assistance provided by the Company, its agents or representatives relating to any aspect of the Software Solution (whether provided before, during or after delivery) including (but not limited to) operational usage or potential applications is given for the Customers sole assessment and decision (if necessary, after trial operations by the Customer) having regard to the Customers own particular circumstances. Accordingly, such advice or assistance is given without responsibility or liability.

15.6 The Customer accepts that the Software Solution is supplied as a software platform comprising an assembly of complementary software components which is constantly being developed and that the Customer is solely responsible for the way in which the Software is used and for any output resulting from the Customers use of the Software and the consequences of such use in conjunction with any other software or equipment or product. Without prejudice to the foregoing obligation in accordance with best industry practice the Customer shall at each stage verify data, documents, files and records that are input or transferred into and produced from the Software Solution.

15.7 The Customer shall indemnify the Company and keep the Company fully and effectively indemnified against any and all losses, claims, damages, costs, charges, expenses, liabilities, demands, proceedings and actions which the Company may sustain or incur or which may be brought or established against it by any person and which in any case arise out of or in relation to or by reason of misuse of the Software Solution by the Customer.

15.8 If any claim is made against the Customer for which indemnification is sought under the preceding clause, the Company shall consult with the Customer and, subject to its reasonable satisfaction, shall responsibly co-operate with the Customer in relation to any reasonable request made by the Customer in respect of such a claim.

15.9 The Customer shall indemnify and defend the Company and its employees in respect of any claims by third parties which are occasioned by or arise from any Company performance pursuant to the instructions of the Customer.

15.10 The Company disclaims and excludes all liability to the Customer in connection with these Terms & Conditions including the Customers use of the Software Solution and in no event shall the Company be liable to the Customer for special, indirect or consequential damage arising from use of the Software Solution. All terms of any nature, express or implied, statutory or otherwise, as to correspondence with any particular description or sample, fitness for purpose or merchantability, are hereby excluded.

16. INTELLECTUAL PROPERTY RIGHTS INDEMNITY

16.1 The Company will indemnify and hold harmless the Customer against any damages (including costs) that may be awarded or agreed to be paid to any third party in respect of any claim or action that the normal operation, possession or use of the Software Solution by the Customer infringes the patent, copyright, registered design or trade mark rights of the said third party provided that the Customer:

16.1.1 Gives notice to the Company of any Intellectual Property Infringement immediately upon becoming aware of it; and

16.1.2 Gives the Company the sole conduct of the defence to any claim or action in respect of any Intellectual Property Infringement and does not at any time admit liability or otherwise settle or compromise or attempt to settle or compromise the claim or action except upon the express instructions of the Company; and

16.1.3 Acts in accordance with the reasonable instructions of the Company and gives to the Company such assistance as it reasonably requires in respect of the conduct of the defence.

16.2 The Company will reimburse the Customer its reasonable costs incurred in complying with the provisions of clause 16.1 above.

16.3 The Company will have no liability to the Customer in respect of an Intellectual Property Infringement if it results from any breach of the Customers obligations under these Terms.

16.4 In the event of an Intellectual Property Infringement the Company will be entitled at its own expense and option either to:

16.4.1 Procure the right for the Customer to continue using the Software Solution; or

16.4.2 Make such alteration, modification or adjustment to the Software Solution so that they become non-infringing without incurring a material diminution in function; or

16.4.3 Replace the Software Solution with non-infringing substitutes provided that the substitutes do not entail a material diminution in function.

17. RISK IN THE SOFTWARE INSTALLATION

17.1 Risk in the Software Solution will pass to the Customer following Installation subject only to clause 14.1.2.

17.2 Following installation, if the Software is destroyed, damaged, lost or stolen, the Company will upon request as soon as reasonably practicable replace the Software and reserves the right to levy a charge to the Customer for any replacement and installation.

17.3 The Customer shall take such steps as may be necessary in respect of any matters arising out of or relating to its possession and use of the Software to the extent at least to which the Customer excludes or limits its liability in respect of the same pursuant to these Terms including where appropriate obtaining insurance cover.

18. TERMINATION

18.1 This Agreement will continue until terminated in accordance with the following provisions:

18.1.1 By the Company giving three months written notice to the Customer of a cessation of provision of the Software Solution in the event that the software or service being provided is end of life or the designated equipment being used is end of life or for any reason that the Company may decide to cease provision of the Software Solution; or

18.1.2 By the Company or Customer giving notice to the other Party within the first nine months of any year following the first Anniversary; that is, within the nine months following the first Anniversary (viz. from year two onwards). Termination will then occur in the twelfth month following the relevant Anniversary.

18.1.3 Subject to clause 7.8.2, by either party on written notice to the other if the other commits any material breach of any of these Terms and which (in the case of a breach capable of being remedied) shall not have been remedied within 90 days of a written request to remedy it; or

18.1.4 Forthwith by either party if the other is adjudicated bankrupt, enters into liquidation or any arrangement or composition with or assignment for the benefit of its creditors or if a trustee or a receiver or administrator or administrative receiver or receiver and manager is appointed against the whole or any part of its assets or business.

18.2 Any termination of the Agreement will be without prejudice to any other rights or remedies to which a party may be entitled under these Terms & Conditions or at law and will not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.

18.3 Unless agreed otherwise by the Company, within ten days of the termination of the Agreement (irrespective of the reason for termination), the Customer will (at the Company's sole option) either return all copies of the Software and Documentation in its possession or control, or destroy all copies of the Software and Documentation in its possession or control, and a duly authorised officer of the Customer shall certify in writing to the Company that the Customer has complied with its obligation under this clause.

19. EXPIRY, TERMINATION OR NOVATION

19.1 Upon notice of a termination event, if appropriate and at the Company's discretion, the Company will seek to agree an exit plan with the Customer to ensure the secure and safe export of the Customers data and/or documents from the software solution and co-operate in any migration support into the replacement system or similar nominated by the Customer.

19.2 All relevant cost charges from the Company to the Customer to support the exit and migration are to be invoiced and payment made prior to the exit and migration operations.

19.3 Alternatively, but at the sole discretion of the Company which shall not be unreasonably withheld, the Customer may elect to novate the software solution from being a 'live installation' to become an 'archive installation' instead whereby access to the software and all its contents continues but no further data or documents can be added; effectively, the contents are frozen but still available for retrieval and viewing.

19.4 In the case of the above novation option occurring, the Company and Customer will agree a new set of cost charges for software licensing, system support and software maintenance including annual renewal which will be embodied into a new Customer Quotation incorporating the relevant Novation Agreement.

20. RESUMPTION

20.1 In the event that a Customer has been responsible for terminating the Agreement & Licensing as per sections 18 and 19 preceding but later wants to resume the Agreement & Licensing, the Company may at its discretion consent to a resumption on an agreed date.

20.2 If the Company consents to a resumption, the following clauses shall apply unless otherwise agreed by the Company:

20.2.1 Prior to resumption, the Customer must make payment of a Resumption Cost Charge being calculated as 2 x multiple (two times multiple) of the Annual Renewal Cost Charge that was relevant prior to the Termination Event;

20.2.2 The Company may also charge for professional services relevant for software re-installation and resumption of services and will confirm such cost charges to the Customer prior to resumption.

20.3 Upon the resumption date, all sections and their clauses set out in this Agreement will again apply.

21. FORCE MAJEURE

21.1 Neither party shall be responsible or liable to the other party for failure or delay in the performance of any of its obligations under this Agreement resulting from causes beyond its reasonable control such as Accidents, Actions or omissions of regulatory or governmental bodies including the passage of laws or regulations or other acts of government that impact the delivery of services, Acts of civil or military authority. Acts of God, Civil commotion, Earthquake, Embargo, Explosion, Fire, Flood, Pandemic, Riot, Sabotage, Strike (other than of the employees of either Party), Terrorism, War or hostilities between nations (an "Event of Force Majeure").

21.2 Each of the parties agrees to give notice to the other upon becoming aware of an Event of Force Majeure, such notice to contain details of the circumstances giving rise to the Event.

21.3 If as a result of legislation or governmental action, either party or both parties are precluded from receiving any benefit to which they are entitled hereunder, the parties hereto shall review the terms of this Agreement so as to restore such party or parties to the same relative positions as previously obtained or contemplated hereunder.

21.4 Any Event of Force Majeure will not apply to the payment obligations of the Customer under these Terms & Conditions.

22. WAIVER

22.1 The waiver by either party of a breach or default of any of these Terms by the other party will not be construed as a waiver of any succeeding breach of the same or any other provision nor shall any delay or omission on the part of either party to exercise or avail itself of any right power or privilege that it has or may have under these Terms operate as a waiver of any breach or default by the other party.

23. OTHER LICENSES

23.1 Nothing contained in this Agreement shall be construed as conferring by implication, estoppel or otherwise upon either party hereunder any license or other right except the licenses and rights expressly granted to a party hereto.

24. ENTIRE AGREEMENT

23.1 The Company and the Customer have read and understood this agreement and agree that it constitutes the complete and exclusive statement of the agreement between them with respect to the subject matter hereof and supersedes all proposals, representations, understandings and prior agreements, whether oral or written, and all other communications between them relating thereto.

23.2 The Company and the Customer irrevocably and unconditionally waive the right to claim damages and/or rescind this agreement as a result of misrepresentation, excepting in the case where such misrepresentation was made fraudulently.

25. NOTICES

25.1 Unless otherwise stated herein, any notice to be served on any of the parties by any other shall be sent by email to the most senior registered representative and shall be deemed to have been received by the addressee unless there is an undelivered alert thereupon the notice shall be sent instead by registered post and shall deemed to have been received by the addressee within 48 hours.