



Workbooks Online Limited

Terms of Service

1. Definitions

"Workbooks" means Workbooks Online Limited, company registration number 6393851 of 400 Thames Valley Park Drive, Reading, Berkshire, RG6 1PT.

"You" and "your" means the individual or entity that has executed this agreement ("Agreement") and ordered programs and/or services from Workbooks or an authorised distributor.

"Order" means the ordering document or documents that sets out the Services to be provided under the Subscription.

"Permitted Users" means the permitted number of users for the Services as set out in an Order being individuals authorised by you or on your behalf, and who are your employees, agents or contractors. For the avoidance of doubt a Permitted User must be one unique person, multiple people must not share user credentials.

"Privacy Policy" means our privacy policy, which you may access online at <http://www.workbooks.com/privacypolicy.html>.

"Program Documentation" means the program user manual and program installation manuals, which can be accessed online at <http://www.workbooks.com/kb>.

"Programs" means the software products owned or distributed by Workbooks which you have ordered, Program Documentation, and any program updates acquired through technical support.

"Services" means on-demand services incorporating the Programs, technical support, education, or other services, which you have ordered.

"Site" means our website www.workbooks.com & secure.workbooks.com or such other domain as we use to provide the Services.

"Subscription Fees" means the fees payable by you for the Services as set out in an Order.

"Subscription Term" means the term of the subscription for the Services as set out in an Order.

"Authorised Customer Contact(s)" means the nominated customer contacts as defined on the Order which may be changed from time to time by the customer.

2. Terms of Service

- 2.1. Upon Workbooks' acceptance of your Order and subject to the terms and conditions set out in this Agreement, including any set out in the Order, Workbooks grants to you, during the Subscription Term, the non-transferable, non-exclusive, worldwide right to allow the Permitted Users to use the Service solely for your own internal business operations.
- 2.2. You may use the Service during the Subscription Term provided you have paid the Subscription Fees, which are non-refundable. You may allow your agents and contractors to use the Service for your internal business operations and you are responsible for their compliance with this Agreement in such use. To the extent that the Service is specifically designed to allow your customers and suppliers to interact with you in the furtherance of your internal business operations, such use is allowed under this agreement.
- 2.3. Workbooks may at any time audit the number of Permitted Users on the service.
- 2.4. Unless specifically authorised in writing in advance by Workbooks, you may not rent, lease or timeshare the Services or provide subscription services for the Services or permit others so to do.
- 2.5. Any source code provided to you by Workbooks is subject to the terms of this Agreement. Any other use of the Services by any person, business, corporation, government organisation or any other entity is strictly forbidden and is a violation of this Agreement.
- 2.6. Subject to the terms and conditions of this Agreement, Workbooks will use all reasonable efforts to provide the Services for the Subscription Term.
- 2.7. Service levels for the Services may be found in Schedule I.
- 2.8. If at any time provision of the Services to you compromises the security of the Services generally as a result of, without limitation, hacking, denial of service attacks or other malicious activities originating from your network, Workbooks may suspend all or part of the Services immediately and until the problem has been resolved. In such an event, Workbooks will promptly inform you and work with you to resolve such issues in order to reinstate the Services at the earliest possible opportunity.
- 2.9. Workbooks may modify, enhance, replace, or make additions to the Services in any way whatsoever as Workbooks may in its sole discretion decide as long as the quality of the service is not materially



degraded. Program Documentation may be accessed online at www.workbooks.com/knowledge_base. Services are provided based on Workbooks' policies for the services ordered, which are subject to change.

- 2.10.** A description of the Technical Support for the Services may be found in Schedule II
- 2.11.** Subject to clause 2.15 and clause 2.17, Workbooks will use all reasonable efforts to ensure that Customer Data is protected from unauthorised access, is backed-up and is secure.
- 2.12. Lawful Conduct:** You agree not to use the Services for any unlawful purpose and to indemnify and hold Workbooks harmless against any and all losses, costs and expenses which Workbooks may incur as a result of such unlawful activities, including but not limited to: (i) civil or criminal offences of intellectual property rights infringement, including but not limited to copyright, trade mark and patent infringement; or (ii) transmission or posting of obscene, indecent or pornographic materials; or (iii) transmission or posting of any material which is slanderous, defamatory, offensive, abusive, or menacing or which causes annoyance or needless anxiety to any other person.
- 2.13. Provision of customer information:** You agree to provide accurate, current and complete information on the Customer's legal business name, address, email address and phone and promptly inform Workbooks if this information should change.
- 2.14. Customer Requirements:** Customers must have an Internet connection and an Internet browser which supports Javascript to access the service. The customer understands that an ADSL or other high speed Internet connection is required for proper performance of the service.
- 2.15. Data storage:** The Customer acknowledges that the technical processing and storage of Customer data is fundamental to the provision of the service. Customer expressly consents to Workbooks storage of Customer data and the back-up of that data onto various media in order to ensure the availability and integrity of the Service. The customer grants Workbooks a limited non-exclusive non-transferable license to copy, store, record, transmit, maintain, display, view, print or otherwise use Customer Data to the extent necessary to provide the Service to the Customer. The Customer agrees that the license to store and maintain Customer Data shall survive the termination of this Agreement for 12 months. Workbooks agrees that at all times Customer Data shall be considered the property of the Customer.
- 2.16. Storage Limits:** Workbooks currently limits the amount of database storage to 20GB. Any customers using database storage in excess of that limit may be charged additional fees. Workbooks will inform customers before any additional storage charges are levied and allow customers 15 days to reduce the amount of database storage used before additional charges are made.
- 2.17. Electronic Transmission:** The Customer acknowledges that the technical processing of Customers Electronic Communication over the Internet is fundamental to the provision of the service. The customer agrees that Workbooks is not responsible for any delays, loss, alteration or interception of data across any networks not owned by Workbooks, including the Internet.

3. Intellectual Property Rights

- 3.1.** Workbooks or its licensors retain all ownership and intellectual property rights to the Programs. Workbooks retains all ownership and intellectual property rights to anything developed by Workbooks and delivered to you under this agreement resulting from the Services.
- 3.2.** The word mark WORKBOOKS and the Workbooks logo are the trademarks of Workbooks Online Limited. The Workbooks logo is copyright Workbooks Online Limited, 2008.
- 3.3.** Third party technology that may be appropriate or necessary for use with the Programs is specified in the Program Documentation. Such third party technology is licensed to you under the terms of the third party technology license agreement specified in the Program Documentation and not under the terms of this Agreement.

4. Third Party Intellectual Property Rights

- 4.1.** In the event that the Service infringes any third party intellectual property rights, Workbooks will defend and/or settle any third party claim, provided that the Customer:
 - 4.1.1. promptly on becoming aware of the same, notifies Workbooks of any such claim in writing;
 - 4.1.2. gives Workbooks the sole control of any such action or proceedings;
 - 4.1.3. fully co-operates with Workbooks and provides such assistance as it may reasonably require to settle and/or defend such action or proceedings (at the cost of Workbooks); and
 - 4.1.4. any award of costs and/or damages shall belong to Workbooks.
- 4.2.** In the event that the Service infringes any third party intellectual property rights, Workbooks shall, at its option, either make the Service available without infringing so far as Workbooks is aware any third party



intellectual property rights or terminate the Licence forthwith with written notice to the Customer and a refund of the remaining service fee.

4.3. The provisions of Clause 4 above shall not apply to any infringement resulting from:

- 4.3.1. the use of the Service which does not comply with the uses permitted under these T&Cs; or
- 4.3.2. the combination of the Service with any third party product and/or service or modification undertaken by the Customer without the prior written consent of Workbooks.

5. Warranties, Disclaimers, and Exclusive Remedies

- 5.1.** Workbooks warrants that during the Subscription Term the Service will operate in all material respects as described in the Program Documentation applicable to the services purchased by the Customer. Workbooks does not warrant that the Service will be error-free. Customer's sole and exclusive remedy for Workbook's breach of this warranty shall be that Workbooks shall be required to use commercially reasonable efforts to modify the Service to operate in all material respects as described in the Program Documentation. If Workbooks is unable to restore such operation, Customer shall be entitled to terminate the Agreement and shall be entitled to a pro-rata refund of the license fees paid under the Agreement, for the terminated portion of the Subscription Term. Workbooks shall have no obligation with respect to a warranty claim unless notified of such a claim within sixty (60) days of the first instance of any material problem. Such notice must be sent to finance@workbooks.com.
- 5.2.** Workbooks warrants that during the Subscription Term the Service will meet the service levels specified in the Service Level Agreement listed in Schedule I. In the event Workbooks fails to achieve the applicable service level in any month, Customer will be entitled as its sole and exclusive remedy to a credit in accordance with the terms set forth in Schedule I. Customer agrees that Workbooks system logs and other records shall be used to calculate service levels.
- 5.3.** Workbooks warrants that during the Subscription Term of this Agreement that Workbooks will use commercially reasonable efforts to safeguard and accurately maintain Customer Data, utilising at a minimum industry standard security and back-up procedures. In the event of a breach of this provision, Workbooks will use commercially reasonable efforts to correct the Customer's Data as quickly as possible.

EXCEPT AS STATED IN SECTION 5, WORKBOOKS DOES NOT REPRESENT THAT CUSTOMER'S USE OF THE SERVICE WILL BE SECURE, ERROR FREE or UNINTERRUPTED, OR THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS. OR THAT ERRORS IN THE SERVICE OR DOCUMENTATION WILL BE CORRECTED. TO THE EXTENT PERMITTED BY LAW, THESE WARRANTIES ARE EXCLUSIVE AND ALL OTHER WARRANTIES OR CONDITIONS OR TERMS WHETHER EXPRESS OR IMPLIED ARE EXPRESSLY EXCLUDED, INCLUDING WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, AND FITNESS FOR A PARTICULAR PURPOSE.

6. Limitation of Liability

- 6.1.** NOTHING IN THIS AGREEMENT SHALL LIMIT WORKBOOKS' LIABILITY FOR PERSONAL INJURY OR DEATH CAUSED BY THE NEGLIGENCE OF WORKBOOKS, OR WORKBOOKS' LIABILITY IN THE TORTS OF DECEIT OR FRAUDULENT MISREPRESENTATION.
- 6.2.** NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF PROFITS, REVENUE, DATA, OR DATA USE.
- 6.3.** WORKBOOKS' MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR YOUR ORDER, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL BE LIMITED TO THE FEES YOU PAID WORKBOOKS FOR THE DEFICIENT PROGRAM OR SERVICES UNDER THIS AGREEMENT AS SPECIFIED IN YOUR ORDER. IN NO EVENT SHALL WORKBOOKS' LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL FEES PAID UNDER YOUR ORDER.

7. Non-disclosure

- 7.1.** By virtue of this Agreement, the parties may have access to information that is confidential to one another ("Confidential Information") identified as such at the time of disclosure. We each agree to disclose only information that is required for the performance of obligations under this Agreement.
- 7.2.** A party's Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on the disclosure; or (d) is independently developed by the other party.
- 7.3.** We each agree to hold each other's Confidential Information in confidence for a period of five years from the date of disclosure. Further, we each agree to disclose Confidential Information only to those employees or agents who require it in order to support our internal business operations. Nothing shall



prevent either party from disclosing Confidential Information in any legal proceeding arising from or in connection with this agreement or disclosing the Confidential Information to a governmental entity as required by law.

8. Data Protection

- 8.1.** Workbooks will protect any data provided by you that resides in your on-demand service environment ("Customer Data") as confidential in accordance with Section 8.
- 8.2.** You acknowledge and agree that Customer Data may be transferred or stored outside of the country or other jurisdiction where you and your Users are located.
- 8.3.** In addition, you acknowledge and agree that it is your obligation to inform third parties of the use, processing, or transfer of Customer Data and to ensure that such third parties have given their consent to such use, processing, and transfer as required by all applicable data protection legislation.
- 8.4.** You shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and copyright of all Customer Data. Workbooks' practices concerning the privacy and security of Customer Data in connection with the Service is set forth in Workbooks' Privacy Policy available at www.workbooks.com/privacy. Workbooks shall have the right to modify this policy at any time in its sole discretion; however, by any such modification, Workbooks will not materially reduce the level of protection afforded your Customer Data by these policies for the Subscription Term.

9. Recovery of Data

- 9.1.** At your request, within thirty (30) days of termination of the Subscription, provided you are not in breach of this Agreement or such Order, Workbooks will permit you to access the Service solely to the extent necessary for you to retrieve a file of your Customer Data then in Workbooks' possession. You agree and acknowledge that Workbooks has no obligation to retain Customer Data and that Customer Data may be irretrievably deleted after ninety (90) days following the termination of the Subscription or if your account is thirty (30) days or more past due.
- 9.2.** At your request, within thirty (30) days of a request by the Customer, Workbooks will provide a copy of your Customer Data on a suitable media (Disk, CD, DVD) in the form of a database dump. This request may only be made twice during the subscription term of this contract.

10. Trial Subscriptions

- 10.1.** Trial subscriptions to the Services may be obtained subject to the terms of this Agreement for use by the Subscriber for up to thirty (30) days only to evaluate and facilitate your subscription decision. At the end of such thirty (30) day period, you must pay the applicable Subscription Fees or this Agreement will automatically terminate. The provisions of section 9 will not apply.

11. Linking to our Site

- 11.1.** You may link to our home page, provided you do so in a way that is fair and legal and does not damage our reputation or take advantage of it, but you must not establish a link in such a way as to suggest any form of association, approval or endorsement on our part where none exists.
- 11.2.** You must not establish a link from any website that is not owned by you. Our Site must not be framed on any other site, nor may you create a link to any part of our site other than the home page. We reserve the right to withdraw linking permission without notice.

12. Links from our Site

- 12.1.** Where our Site contains links to other sites and resources provided by third parties, these links are provided for your information only. We have no control over the contents of those sites or resources, and accept no responsibility for them or for any loss or damage that may arise from your use of them.

13. Fees and Taxes

- 13.1.** All fees payable to Workbooks are due within 30 days from the invoice date. You agree to pay any sales, value-added or other similar taxes imposed by applicable law that Workbooks must pay based on the Subscription you ordered, except for taxes based on Workbooks' income. Fees for Subscriptions listed in an Order are exclusive of taxes. You agree that you have not relied on the future availability of any programs or updates in entering into the payment obligations in your Order.



14. Assignment

14.1. You may not assign this Agreement or give or transfer the Subscription and/or the Services or an interest in them to another individual or entity, without prior written consent from Workbooks. Workbooks may assign, subcontract or sublet its rights and interest in this agreement on part thereof.

15. Third Party Rights

15.1. A person who is not a party to this agreement has no rights under the Contracts (Rights of Third Parties) Act, 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party that exists or is available apart from that Act.

16. Force Majeure

16.1. The obligations of each party under this Agreement shall be suspended during the period and to the extent that such party is prevented or hindered from complying with them by any cause beyond its reasonable control including events such as, but not limited to: strikes, lock-outs and labour disputes (other than by its own work force); acts of God; war; terrorism; riot; civil commotion; malicious damage; compliance with any law or governmental order, regulation or direction; accident; fire; flood; or storm.

17. Termination

17.1. This Agreement and your right to use the Services will terminate automatically at the end of the Subscription Term.

17.2. If either party breaches a material term of this Agreement and fails to correct the breach within 30 days of written specification of the breach, then the breaching party is in default and the non-breaching party may terminate this Agreement. If Workbooks ends this agreement as specified in the preceding sentence, you must pay within 30 days all amounts which have accrued prior to such end, as well as all sums remaining unpaid for Services ordered and/or received under this agreement plus related taxes. Except for non-payment of fees, the non-breaching party may agree in its sole discretion to extend the 30-day period for so long as the breaching party continues reasonable efforts to cure the breach. You agree that if you are in default under this Agreement, you may not use those Services ordered. Provisions that survive termination or expiration are those relating to limitation of liability, payment, and others which by their nature are intended to survive.

18. Suspension

18.1. Workbooks reserves the right to suspend Customer's access to the Service in the event that the Customer account for which payment is due, is unpaid by more than 45 days and the Customer has received a notification of non-payment.

18.2. The Customer agrees that Workbooks may with reasonable telephonic notice suspend Customer's access to the Service if Workbooks reasonably concludes that the Customer is using the Service to engage in denial of service attacks, illegal activities, or the Customer's use is causing immediate and material harm to Workbooks or others.

19. Publicity

19.1. The Customer and Workbooks agree that each party may disclose that they share a business relationship and the Customer subscribes to the Services. Further details of the business relationship shall not be disclosed without the express consent of both parties.

20. Entire Agreement

20.1. You agree that this Agreement and the information which is incorporated into this agreement by written reference (including reference to information contained in a URL or referenced policy), together with the Order, are the complete agreement for the Services ordered by you, and that this Agreement supersedes all prior or contemporaneous agreements or representations, written or oral, regarding such Services. If any term of this Agreement is found to be invalid or unenforceable, the remaining provisions will remain effective and such term shall be replaced with a term consistent with the purpose and intent of this Agreement. It is expressly agreed that the terms of this Agreement and any Order shall supersede the terms in any purchase order or other non-Workbooks ordering document and no terms included in any such purchase order or other non-Workbooks ordering document shall apply to the Services ordered. This Agreement and any Order may not be modified and the rights and obligations may not be altered or



waived except in a writing signed by the authorised representatives of you and of Workbooks. Any notice required under this Agreement shall be provided to the other party in writing.

21. Jurisdiction

21.1. This Agreement shall be governed by and construed in accordance with the laws of England and Wales and each party hereby irrevocably submits to the exclusive jurisdiction of the Courts of England and Wales. Notwithstanding the foregoing nothing herein shall preclude either party from seeking injunctions from any court of competent jurisdiction in order to protect its intellectual property rights or Confidential Information.

22. Customer Support Services

22.1. Workbooks will provide customer support services to Authorised Customer Contacts as defined in Schedule II.

22.2. The customer is limited to two (2) Authorised Customer Contacts per contract, with one (1) additional Authorised Customer Contact for each fifty (50) users of the Service.



SCHEDULE I

Service Level Agreement

Workbooks commits to provide 99.5% service level availability to the Service during each month of the service. Service availability is defined as the Customer's ability to login to the Service and is measured by the availability of the login page.

Only Workbooks' production systems will be measured against the service level agreement. Production systems are defined as those residing at <https://secure.workbooks.com>.

Periods of maintenance are excluded from the service availability measurement. If in any month the service availability is not met by Workbooks and the Customer was negatively impacted by the unavailability, Workbooks shall provide as the sole and exclusive remedy, a service credit equal to one month's fee for the use of the service.

Maintenance Periods

Maintenance periods are excluded from the service availability guarantee. Maintenance of the Service is required from time-to-time to ensure the continued reliability of the Service. Workbooks hereby provides notice that scheduled maintenance will occur every Friday night between 10pm and 11pm. Additional maintenance periods may be scheduled and the Customer will be notified at least 2 days in advance. Workbooks aims to conduct maintenance in the evening and at weekends to minimise the impact on Customers.

Credit Request

In order to receive a credit under this service level agreement, Customers must request a credit by emailing finance@workbooks.com, within 15 days of the month for which the credit is being requested. Customers who are part due or in default, or in breach of the Agreement are not eligible for any credit under the terms of this agreement.

Following the successful acknowledgement of the credit by Workbooks, customers current Subscription Term will be extended to include the additional Service period.

SCHEDULE II

Technical Support

Workbooks will endeavour to provide technical support for Customers between 9:00am until 5:00pm weekdays, excluding Public Bank Holidays in England & Wales.

When the Customer logs a technical support Case, Workbooks will prioritise the call and respond as defined in the table below.

Level	Description	Working Hours	Out of Hours	Target Resolution
One	Critical Priority: A problem in which the customer's production Workbooks systems are down or not functioning, or where there is a major feature failure or production data loss or corruption, or where there is a security breach which exposes customer data to third-parties.	Respond to all calls within 1 hour.	Respond to all calls within 1 hour.	As soon as possible but no later than within one Day of the call.
Two	Urgent Priority: A problem which seriously affects the customer's use of their production Workbooks system for necessary business-level operations such that the customer's business is significantly disrupted. A workaround may exist but it is inconvenient or impractical.	Respond to all calls within 2 hours.	Respond to all calls within the next working day.	As soon as practicable but within two Normal Working Days or as otherwise agreed between Workbooks and the Customer.
Three	Normal Priority: Medium-to-low business impact problem which causes partial non-critical functionality loss. A problem has been identified but the resolution is not critical to the service being provided. This kind of problem impairs some operations but allows the customer to continue to function.	Respond to all calls within same working day.	Respond to all calls within the next working day.	At the time of response or as soon as practicable thereafter or as otherwise agreed between Workbooks and the Customer.
Four	Minor Priority: Minor impact. The customer has a minor loss of operational functionality caused by a minor feature or partial service failure. This may be a minor issue with limited loss or no loss of functionality or impact to the customer's operation or where there is an easy circumvention or avoidance by the end user; a convenient workaround exists.	Respond to all calls within three Normal Working Days.	Respond to all calls within three Normal Working Days.	At the time of response or as soon as practicable thereafter or as otherwise agreed between Workbooks and the Customer.
Five	Low Priority: Includes general usage questions, recommendations for future service enhancements or modifications, or where the service functionality does not match documented specifications or the customer would benefit from a new feature. There is no impact on the quality or performance of the customer production system.	Respond to all calls within five Normal Working Days.	Respond to all calls within five Normal Working Days.	At the time of response or as soon as practicable thereafter or as otherwise agreed between Workbooks and the Customer.

In addition Workbooks will endeavour to categorise & prioritise each case item within one hour of its receipt.



Support Procedures

A Support Case can be logged with Workbooks Customer Support either by telephone or email by any one of the *Authorised Customer Contacts*.

The current support contact details are:

support@workbooks.com

Support Line: +44 (0) 118 3030 101

The customer will endeavour to provide as much information as possible relating to the case, including the user experiencing the issue, date/time, screen/view/report.