

MASTER SERVICES AGREEMENT ("AGREEMENT")

THIS AGREEMENT GOVERNS YOUR SUBSCRIPTION (PAID OR FREE) TO AND/OR USE OF OUR SERVICES TO THE EXCLUSION OF ANY OTHER TERMS AND CONDITIONS. IF YOU REGISTER FOR A FREE TRIAL OR FREE EDITION OF OUR SERVICES, THE APPLICABLE SECTIONS OF THIS AGREEMENT SHALL GOVERN YOUR USE OF THE SERVICES DURING THE RELEVANT PERIOD. BY EXECUTING AN ORDER FORM REFERENCING THIS AGREEMENT; OR, FOR SERVICES PROVIDED AS PART OF A FREE TRIAL, BY USING THE SERVICES; YOU ACCEPT THE TERMS OF THIS AGREEMENT. WHERE YOU ENTER THIS AGREEMENT ON BEHALF OF A LEGAL ENTITY YOU WARRANT AND REPRESENT THAT YOU HAVE AUTHORITY TO BIND SUCH LEGAL ENTITY.

WE MAY UPDATE THIS AGREEMENT FROM TIME TO TIME AND ANY CHANGES WILL TAKE EFFECT UPON NOTIFICATION OF THE UPDATED AGREEMENT TO YOU. PUBLICATION OF THE REVISED AGREEMENT ON OUR WEBSITE SHALL CONSTITUTE NOTIFICATION.

THIS AGREEMENT WAS LAST UPDATED IN APRIL 2018.

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GENERAL TERMS

1. DEFINITIONS

1.1 In this Agreement the following terms have the following meanings:

"Agreement"	means this Master Services Agreement comprising of the General Terms, Service Terms, Technical Support, the Data Processing Addendum, the Order and any other Documentation that is referred to in any of the above including the Service Description;
"Authorised Contact(s)"	Customer means any person(s) acting on behalf of the Customer in connection with this Agreement

including the nominated customer contacts required pursuant to clause 4.2;

"Consultancy Services"

means the professional services as more particularly described in the section headed **Service Terms: Consultancy Services**, to be provided by Workbooks to the Customer where indicated on an Order;

"Customer"

means the person or entity that has executed this Agreement and ordered Services from Workbooks, or through a Workbooks Partner, or subscribed online to the Workbooks Free Edition or a Workbooks Trial Subscription.

"Customer Data"

means any electronic data or information provided by the Customer or collated by Workbooks in the provision of the Services or any data entered into the Services by the Customer. Customer Data may include Personal Data;

"Data Protection Laws"

means any applicable US, UK or EU law relating to the processing, privacy, and use of Personal Data, as applicable to Workbooks and/or the Services including:

- (i) the Data Protection Act 1998;
- (ii) the EU Data Protection Directive (95/46/EC) as implemented in each relevant jurisdiction;
- (iii) the Privacy and Electronic Communications (EC Directive) Regulations 2003 and the EU Privacy and Electronic Communications Directive 2002/58/EC as implemented in each relevant jurisdiction; and
- (iv) the General Data Protection Regulation EU 2016/679 (GDPR) from the date the GDPR applies (as set out in Article 99 Entry into force and application);

and any corresponding or equivalent national laws or regulations and any amending, equivalent or successor legislation to any of the above from the date that they come into force and the guidance and codes of practice issued by the Information Commissioner or

any other supervisory authority in any relevant jurisdiction;

"Electronic Communications"

means any transfer of signs, signals, text, images, sounds, data or intelligence of any nature transmitted in whole or part electronically received and/or transmitted through the Service;

"Extensions"

means any features or functionality designed by Workbooks which are available to be used with the base package of the Workbooks CRM Service subject to payment of the relevant additional fee as set out on the Order;

"Fair Usage Policy"

means Workbooks' fair usage policy, which the Customer may access online at <http://www.workbooks.com/legal/fair-usage>;

"Fees"

means the fees payable to Workbooks by the Customer for the Services as specified on the Order or otherwise by Workbooks and/or any "Excess Usage Charges" which may become payable as set out in the Fair Usage Policy (as applicable);

"Intellectual Property Rights"

means any and all copyright, trademarks, trade secrets, inventions, improvements, know how, processes, discoveries, designs, data, software, formulae, literary works, video, audio visual works, other works of authorship and all parts of them conceived or created, existing now or in the future, wherever in the world arising including any applications for any of the foregoing;

"Modules"

means any modules provided by Workbooks which are available to be use in addition to the base package of the Workbooks CRM Service subject to payment of the relevant additional fee as set out on the Order;

"Order"

means an order form accepted via email or in writing by the Customer or submitted to Workbooks by a Workbooks Partner on behalf of a Customer and/or an order form (including any online order) for additional Services or User Subscriptions placed by the Customer, or by a Workbooks Partner on behalf of a Customer;

"Personal Data"	has the meaning set out in Data Protection Laws;
"Price List"	means Workbooks' current price list which the Customer may access online at www.workbooks.com/pricing , as may be amended and updated by Workbooks from time to time;
"Privacy Notice"	means the Workbooks' privacy notice, which the Customer may access online at http://www.workbooks.com/legal/privacy-notice , as may be amended and updated by Workbooks from time to time;
"Security Policy"	means Workbooks' data security policy which the Customer may access online at http://www.workbooks.com/legal/security-policy , as may be amended and updated by Workbooks from time to time;
"Service Description"	means the description of the Services which the Customer may access online at http://www.workbooks.com/legal/service-descriptions/ as may be amended and updated by Workbooks from time to time;
"Service Documentation"	means any supporting documentation relating to the Services made available to the Customer by Workbooks, including the Service Description, user guides and videos, together with the knowledge base all of which can be accessed online at www.workbooks.com/community/kb and as may be amended or updated from time to time by Workbooks;
"Services"	means any and all services to be provided by Workbooks to the Customer as set out on an Order (or subscribed to online) which may include (as applicable) the Workbooks CRM, Service, Workbooks Marketing Automation Service and/or Consultancy Services;
"Service Terms"	means the additional terms set out in this Agreement in the section headed Service Terms which apply to specific Services;
"Site"	means the Workbooks website located at www.workbooks.com & https://secure.workbooks.com/login or such

	other domain as Workbooks use to provide the Services;
"Subscription Term"	means the relevant subscription term for any Services as set out in an Order (where applicable);
"Technical Support"	means the provision of web and telephone assistance to Customer's Authorised Support Contacts in relation to questions they may have or issues they are encountering with the Services, delivered in accordance with the section of this Agreement headed Technical Support ;
"Term"	means the term of this Agreement as set out in clause 6.1;
"Third Party Applications"	means online, web-based applications or services, including scripts, processes and plugins, together with on premise software products that are provided by third parties, including but not restricted to Workbooks Partners, or by the Customer, which interoperate with the Workbooks CRM Service;
"Workbooks"	means Workbooks Online Limited, company registration number 06393851, trading from Unit 9, Suttons Park Avenue, Reading, Berkshire, RG6 1AZ;
"Workbooks API"	means the application programming interface to the Workbooks CRM Service;
"Workbooks Free Edition"	means an edition of the Workbooks CRM Service with limited functionality;
"Workbooks Infrastructure"	means the software, operating systems and hardware owned and configured by Workbooks for the purposes of delivering the Services;
"Workbooks Marketing Automation Service"	means any marketing automation services as described in the Service Description (including email marketing, email automation, web insights) to be provided by Workbooks to the Customer as set out on an Order;

"Workbooks Partner"	means a company, organisation or individual that has entered into a reselling arrangement with Workbooks and is an authorised reseller of Workbooks;
"Workbooks Process Engine"	means the hosted environment which allows the execution of scripts and processes which may update Customer Data held within the Workbooks CRM Service and/or Third Party Applications;
"Workbooks Published Scripts"	means the generic software code, scripts or plugins developed and maintained by Workbooks for use in an unmodified form in conjunction with the Workbooks CRM Service and which are documented in the script library within the automation section of the Workbooks configuration area of the Workbooks CRM Service;
"Workbooks CRM Service"	means the CRM or Business edition software as a service package (Core Edition or Pro Edition) subscribed to by the Customer as further described in the Price List and the Service Documentation including any installable plug-ins, the Workbooks Process Engine, the Workbooks API, any Workbooks Published Scripts together any Extensions or Modules;
"Workbooks Trial Subscription"	means a free trial subscription to the Workbooks CRM Service for a limited period of 30 days;

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.
- 1.4 Words in the singular shall include the plural and vice versa.
- 1.5 A reference to one gender shall include a reference to the other genders.
- 1.6 A reference to a statute or statutory provision is a reference to the same as from time to time amended, extended, re-enacted or consolidated and includes any subordinate legislation for the time being in force made under it.
- 1.7 References to "clauses" and "Addendum" are to the clauses of and addendum to, this Agreement.

1.8 Any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.9 A reference to “writing” or “written” includes in electronic form and similar means of communication.

2. AGREEMENT

2.1 Upon written acceptance of an Order by Workbooks and subject to the payment of the relevant Fees by the Customer, Workbooks shall provide the Services to the Customer subject to and in accordance with the terms of this Agreement. A contract shall not be formed unless and until acceptance of an Order has been confirmed in writing by Workbooks.

2.2 Provision of the Services is subject to the relevant **Service Terms** for the particular Services.

2.3 This Agreement shall prevail over any inconsistent terms which the Customer seeks to introduce on any purchase order or in any other communication for the purchase of the Services. Unless expressly stated otherwise, in the event of a conflict between the terms of this Agreement, the following documents shall prevail in the following (descending) order: (i) Order, (ii) Service Terms; (iii) Data Processing Addendum (iv) General Terms; (v) Service Documentation.

3. FEES AND PAYMENT

3.1 Unless stated otherwise in an Order all Fees:

3.1.1 shall be invoiced in accordance with the relevant Service Terms;

3.1.2 are due within the payment terms set out on the Order without deduction, set off or retention;

3.1.3 are exclusive of value added tax and any other sales tax or similar tax which may be applicable (which shall be added to the Fees at the rate prevailing at the date of the invoice);

3.1.4 are non-refundable unless as specifically permitted under the terms of this Agreement.

3.2 The provisions of Clause 3.1.1 to 3.1.3 shall not apply where the Services have been ordered through a Workbooks Partner.

4. CUSTOMER OBLIGATIONS

4.1 The Customer agrees 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: (i) Intellectual Property Rights infringement; (ii) transmission or posting of obscene, indecent or pornographic materials; and/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 person.

- 4.2 The Customer shall provide accurate, current and complete information on the Customer's legal business name and address, together with the contact names, email addresses and phone numbers of the Authorised Customer Contacts (including a Primary Contact, a Finance Contact and the nominated Authorised Customer Support Contacts) and promptly inform Workbooks if this information should change. The Customer shall be responsible for informing any Authorised Customer Contacts and those using the Services on their behalf, of the Privacy Notice which sets out how Workbooks will use their personal data.
- 4.3 The Customer confirms it has not relied on the future availability of any functionality or features in entering into this Agreement.
- 4.4 The Customer shall abide by the Fair Usage Policy. In the event of a breach of the Fair Usage Policy the Customer acknowledges and agrees that it may be subject to an Excess Usage Charge calculated in accordance with the Fair Usage Policy. The Fair Usage Policy shall not be amended (in so far as it relates to the provision of the Workbooks CRM Service to the Customer) during the current Subscription Term without the prior written consent of the Customer, such consent not to be unreasonably withheld. Free Edition subscribers who breach the Fair Usage Policy will be required to upgrade to a paid subscription and shall then be subject to additional Fees calculated in accordance with the Fair Usage Policy. Failure to upgrade to a paid subscription will result in termination of the Customer's Free Edition Subscription.
- 4.5 Any use of the Services other than as expressly permitted by this Agreement, by any person, business, corporation, government organisation or any other entity is strictly forbidden and will be deemed a material breach of this Agreement. The Customer may not rent, lease or timeshare the Services or provide subscription services for the Services or permit others so to do.

5. SUSPENSION

- 5.1 Workbooks may suspend Customer's access to and use of any Services for any Customers (a) for which payment is due but unpaid but only after Workbooks or the Workbooks Partner (as relevant) has provided the Customer with two payment requests and at least thirty (30) days have passed since the transmission of the first payment request, or (b) has not notified Workbooks of its desire to renew the Services by the end date of the current Subscription Term, as evidenced by the Customer placing an Order with Workbooks or via a Workbooks Partner for a renewal Subscription Term, prior to the end date of the current Subscription Term, or (c) for Free Edition subscribers who are in breach of Clause 4.4 and/or the data storage limits set out in this Agreement.
- 5.2 If Workbooks reasonably concludes that the Customer is using any of the Services to engage in denial or service attacks, hacking, spamming or any other illegal or malicious activity causing immediate, material or ongoing harm to Workbooks or others, then Workbooks may suspend all or part of the Services immediately, until the problem has been resolved. In the exceptional event that Workbooks suspends the Services, Workbooks will promptly inform the Customer and work with the Customer to resolve

such issues in order to reinstate the Services at the earliest possible opportunity. Workbooks shall not be liable to the Customer nor to any third party for any suspension of the Services under this Clause 5.2.

6. TERMINATION

- 6.1 Each Service will continue for the applicable term set out in an Order and will terminate in accordance with the Order and the applicable **Service Terms**. This Agreement will continue until expiry of all Services upon which it shall automatically terminate.
- 6.2 This Agreement and/or any Service may be terminated by either party immediately upon written notice if:
- 6.2.1 the other party has a receiver or administrator appointed over any or all of its undertakings or assets or passes a resolution for winding up otherwise than for the purpose of a bona fide scheme of reconstruction (or a court of competent jurisdiction makes an order to that effect), enters into a voluntary arrangement with creditors, becomes subject to an administration order or ceases to carry on in business;
 - 6.2.2 the other party commits a material breach of any provision of this Agreement which is not cured within thirty (30) days of written notice of the breach from the non-breaching party. Such notice by the non-breaching party shall expressly state all of the reasons for the claimed breach in sufficient detail so as to provide the alleged breaching party a meaningful opportunity to cure such alleged breach and shall be sent to the alleged breaching party at the address provided under Clause 4.2 ("Notice").
- 6.3 If this Agreement and/or any Services are terminated by Customer for any reason other than a termination expressly permitted by this Agreement, Customer agrees that Workbooks shall be entitled to, and the Customer shall be liable to pay, all of the Fees due under this Agreement for the remaining term for the relevant Services as stated in an Order. If this Agreement is and/or any Services are terminated as a result of a breach on Workbooks' part, Workbooks shall refund the pro rata portion of any Fees actually paid by a Customer, or by a Partner in respect of a Customer, in so far as they relate to the terminated portion of the remaining Subscription Term. This will be the Customer's sole and exclusive remedy in the event of a breach by Workbooks.

7. CONSEQUENCES OF TERMINATION

- 7.1 The Customer agrees and acknowledges that on termination of this Agreement:
- 7.1.1 Workbooks may immediately deactivate the Customer's account and that following a period of not less than ninety (90) days shall be entitled to delete the Customer's account and all associated Customer Data; and
 - 7.1.2 during the 90 day period stated in Clause 7.1.1 and upon the Customer's reasonable request and provided that the Customer has paid in full all amounts unpaid for Services plus related taxes and expenses, Workbooks shall grant the Customer limited access to the Workbooks CRM Service for the sole purpose of permitting the Customer to retrieve Customer Data. The

Customer agrees and acknowledges that after the expiry of such 90 day period Workbooks has no obligation to retain Customer Data and that Customer Data may be irretrievably deleted;

- 7.1.3 any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the obligation to pay and the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1 Any and all Intellectual Property Rights which arise or subsist in, or in connection with the Services and all modifications, extensions, customizations, scripts or other derivative works of the Services provided or developed by Workbooks are owned exclusively by Workbooks and/or its licensors. Except as provided in this Agreement, the rights granted to the Customer do not convey any rights in any Service, express or implied, or ownership in any Service or any Intellectual Property Rights thereto. For the avoidance of doubt references in this Agreement to "purchase" "acquisition" or similar terms shall be to a licence and not ownership of any of the Services and/or any software and/or applications comprised in the Services.
- 8.2 Workbooks shall own and be fully entitled to use in any way it deems fit any Intellectual Property Rights, skills, knowledge, experience, techniques, materials, concepts and know-how acquired, developed or used in performing the Services and any improvements made or developed during the course of delivering Services. Nothing in this Agreement shall be construed or give any effect to any transfer of right, title or interest in Workbooks' Intellectual Property Rights.
- 8.3 The word mark WORKBOOKS and the Workbooks logo are the trademarks of Workbooks Online Limited.
- 8.4 The Customer grants to Workbooks a royalty-free, worldwide, transferable, sub-licensable, irrevocable, and perpetual license to use or incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by the Customer, including users, relating to the operation of the Services.

9. MUTUAL INDEMNIFICATION FOR THIRD PARTY INTELLECTUAL PROPERTY RIGHTS

- 9.1 Workbooks shall defend the Customer against any claim made against the Customer for actual infringement of a third party's Intellectual Property Rights arising directly out of or in connection with the use of any of the Services ("**Third Party Claim**") and indemnify the Customer for all costs, expenses and damages suffered or incurred by the Customer arising out of or in connection with a Third Party Claim, provided the Customer shall:
- 9.1.1 promptly on becoming aware of a Third Party Claim, or a potential Third Party Claim, give written notice of the Third Party Claim to Workbooks, specifying the nature of the Third Party Claim in reasonable detail;

- 9.1.2 not make any admission of liability, agreement or compromise in relation to the Third Party Claim without the prior written consent of Workbooks (such consent not to be unreasonably conditioned, withheld or delayed);
 - 9.1.3 give Workbooks the sole control of any such action or proceedings; and
 - 9.1.4 fully co-operate with Workbooks and provide such assistance as Workbooks may reasonably require to avoid, dispute, compromise, settle and/or defend such Third Party Claim.
- 9.2 In the event of a Third Party Claim, Workbooks may, in its sole discretion (a) modify the relevant Services that are the subject of the Third Party Claim, such that the Services no longer infringe such third party Intellectual Property Rights, at no additional cost to Customer, or (b) obtain a licence for Customer to continue to use the relevant Services under this Agreement or (c) if these options are not possible, Workbooks may terminate the relevant Services on 30 days' written notice to the Customer and refund any Fees paid in respect of the Services that are the subject of the Third Party Claim for the terminated portion of the relevant term.
- 9.3 The provisions of Clause 9.1 above shall not apply to any infringement resulting from:
 - 9.3.1 the use of the Services other than as permitted under this Agreement;
 - 9.3.2 any modification of the Services other than by Workbooks; and/or
 - 9.3.3 the combination of the Services with any Third Party Application.
- 9.4 The Customer shall defend Workbooks against any claim made against Workbooks for actual or alleged use by Customer of the Services in breach of or which does not comply with the use permitted under this Agreement. The Customer shall indemnify Workbooks for all costs, expenses and damages suffered or incurred by Workbooks arising out of or in connection with such a claim.

10. WARRANTIES

- 10.1 Both parties warrant that they have the legal power to enter into this Agreement.
- 10.2 Workbooks warrants that during the term of an Order, subject to any exclusions or limitations in this Agreement, (a) the relevant Services will perform materially in accordance with the Service Documentation applicable to the Services purchased by the Customer, and (b) such functionality will not be materially decreased during the relevant term. Customer's sole and exclusive remedy for Workbooks' breach of this warranty (save for any service credits that may be due pursuant to this Agreement) shall be that Workbooks shall be required to use commercially reasonable efforts to modify the Services to achieve in all material respects the functionality described in the Service Documentation. If Workbooks is unable to restore such functionality, the Customer shall be entitled to terminate the relevant Order and shall be entitled to a pro-rata refund of the Fees paid under the Agreement, for the terminated portion of the term of the relevant Order.

- 10.3 Workbooks shall have no obligation with respect to any claim under any warranties given in this Agreement (including in any **Service Terms**) unless notified of such a claim within sixty (60) days of the first instance of the performance of the deficient Services. Such notice must be sent to finance@workbooks.com.
- 10.4 Workbooks does not warrant or represent that the Customer's use of the Service will be secure, timely, error free or uninterrupted, or that the Services will meet Customer's requirements, or that errors in the Services or Service Documentation will be corrected. To the extent permitted by law, except as expressly stated in this Agreement, all other warranties or conditions or terms whether express or implied are excluded, including warranties or conditions of merchantability, satisfactory quality, and fitness for a particular purpose. The Customer assumes all responsibility for determining whether the Services or the information generated by the Services is accurate or sufficient for the Customer's purposes.

11. LIMITATION OF LIABILITY

- 11.1 Subject to clause 11.3 neither party shall be liable under this Agreement in contract, tort (including negligence), statutory duty or otherwise for any loss of profits, loss of or damage to data, loss of revenue, loss of contracts or any indirect, incidental, special, punitive, or consequential damages, howsoever arising and whether direct, indirect, foreseeable or otherwise.
- 11.2 Subject to clause 11.3 Workbooks' maximum liability for any damages arising out of or related to this Agreement, whether in contract, tort (including negligence), statutory duty, or otherwise, shall be limited to:-
- 11.2.1 \$350,000 in aggregate for any breach of the Data Processing Addendum and/or Data Protection Laws by Workbooks; and
- 11.2.2 in all other cases, 125% of the Fees paid to Workbooks under this Agreement in the twelve months preceding the first incident out of which the liability arose.
- 11.3 Nothing in this Agreement shall limit either party's liability:
- 11.3.1 for personal injury or death caused by negligence;
- 11.3.2 for fraud;
- 11.3.3 for any other liability that it is not permitted to exclude or limit as a matter of law;
- 11.3.4 in the case of the Customer, its liability to pay the Fees under this Agreement.

12. CONFIDENTIAL INFORMATION

- 12.1 For the purposes of the Agreement "Confidential Information" means the terms of this Agreement including the pricing and other terms reflected in quotations and Orders, Customer Data, business processes, Workbooks' Intellectual Property Rights, technology and technological information, product designs, business and marketing plans and all confidential and proprietary information of a party ("Disclosing Party")

disclosed to the other party ("Receiving Party") whether orally or in writing and whether or not identified in writing or verbally at the time of disclosure as confidential.

- 12.2 Confidential Information shall not include information which is (1) known publicly; (2) is generally known in the industry before disclosure; (3) has become known publicly, without fault of the Receiving Party, subsequent to disclosure by the Disclosing Party; or (4) the Receiving Party becomes aware of from a third party not bound by non-disclosure obligations to the Disclosing Party and with the lawful right to disclose such information to the Receiving Party.
- 12.3 Receiving Party agrees: (a) to keep confidential and secure all Confidential Information disclosed to it by the Disclosing Party; (b) not to use or disclose the Confidential Information of the Disclosing Party except to the extent necessary to perform its obligations or exercise its rights under the Agreement, except with the Disclosing Party's prior written consent; (c) to protect the confidentiality thereof in the same manner as it protects the confidentiality of similar information and data of its own and to make Confidential Information available to authorised persons only on a "need to know" basis.
- 12.4 Either party may disclose Confidential Information on a need to know basis to its professional advisers and to contractors and service providers who have executed written agreements with them to maintain such information in strict confidence. Notwithstanding the foregoing, this Clause 12 will not prohibit the disclosure of Confidential Information to the extent that such disclosure is required by law or order of a court or other governmental authority or regulation provided that (to the extent legally permissible), the Receiving Party will notify the Disclosing Party of such requirement prior to disclosure.

13. CUSTOMER DATA

- 13.1 Workbooks acknowledges and agrees that it has no rights, title or interest in the Customer Data to the extent it is proprietary to the Customer.
- 13.2 Workbooks and Customer acknowledge and agree that to the extent the Customer Data comprises any Personal Data, that the Customer is the 'data controller' or 'controller' and that Workbooks is the 'data processor' or 'processor' (as such terms are defined in Data Protection Laws).
- 13.3 Some of the Services may require a transfer of Customer Data to countries outside the European Union (EU) and/or may require access to Customer Data from outside the EU by Workbooks or a sub-processor of Workbooks. These countries may not have equivalent data protection laws to the EU.
- 13.4 The provisions of the **Data Processing Addendum** set out in this Agreement shall govern the processing of any Personal Data by Workbooks during the provision of the Services and/or the performance of its obligations under this Agreement and contains details of any Services which may require a transfer of Customer Data outside the EU.
- 13.5 **Data Storage:** The Customer acknowledges that the technical processing and storage of Customer Data is fundamental to the provision of the Services. The 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 Services. The Customer grants Workbooks a limited nonexclusive non-transferable licence to copy, store, record, transmit, maintain, display, view, print or otherwise use Customer Data to the extent necessary to provide the Services to the Customer. The Customer agrees that the licence to store and maintain Customer Data shall survive the termination of this Agreement for a maximum of 180 days.

- 13.6 **Transmission of Data:** The Customer acknowledges that the technical processing of Customer's Electronic Communications is fundamentally necessary for Customer's use of the Services. The Customer is responsible for securing a suitable internet connection and up to date browser software which supports Javascript in order to utilise the Services. The Customer expressly consents to Workbooks interception and storage of Electronic Communications and/or Customer Data and/or Personal Data, and Customer acknowledges and understands that Customer's Electronic Communication will involve transmission over the Internet, and over various networks, only part of which may be owned and/or operated by Workbooks. Customer acknowledges that Electronic Communications may be accessed by unauthorised parties when communicated over the Internet, network communication facilities, telephone or other electronic means. The Customer agrees that Workbooks is not responsible for any Electronic Communications and/or Customer Data and/or Personal Data which is delayed, lost, altered, intercepted or stored during the transmission of any data whatsoever across networks not owned and/or operated by Workbooks, including, but not limited to, the Internet and Customer's local network.

14. LINKING TO AND FROM THE SITE

- 14.1 The Customer may link to the Site, provided the Customer does so in a way that is fair and legal and does not damage Workbooks' reputation or take advantage of it, but the Customer 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.
- 14.2 The Customer must not establish a link from any website which is not owned by the Customer. The Site must not be framed on any other site, nor may the Customer create a link to any part of the Site other than the home page. Workbooks reserves the right to withdraw linking permission without notice.
- 14.3 Where the Site contains links to other sites and resources provided by third parties, these links are provided for the Customer's information only. Workbooks has 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 the Customer's use of them.

15. PUBLICITY

- 15.1 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.

16. ASSIGNMENT

- 16.1 The Customer may not assign this Agreement or give, sub-licence, or transfer its rights and/or obligations including its right to use the Services or an interest in them to another individual or entity, without prior written consent from Workbooks, which will not be unreasonably withheld. Workbooks may assign, subcontract, transfer or sublet its rights and interest in this Agreement in whole or in part, as a result of a trade transaction such as an acquisition, divestment or similar event, without disruption of service to Customer for the Term of this Agreement.

17. THIRD PARTY RIGHTS

- 17.1 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.

18. FORCE MAJEURE

- 18.1 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 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.

19. ENTIRE AGREEMENT

- 19.1 The Customer agrees 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 the Customer, and that this Agreement supersedes all prior or contemporaneous agreements or representations, written or oral, regarding such Services.
- 19.2 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.
- 19.3 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.
- 19.4 This Agreement may be amended by Workbooks in its discretion, as long as the quality of the Service is not materially degraded, by providing thirty (30) days' notice to the registered email address provided for the Primary Contact of the Customer, as advised under Clause 4.2. This Agreement and any Order may not be modified by the Customer and the rights and obligations may not be altered or waived by the Customer except in a writing signed by the authorised representatives of the Customer and of Workbooks.

20. JURISDICTION

- 20.1 This Agreement and any dispute or claim arising out of or in connection with the subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of The State of Delaware and each party hereby irrevocably submits to the exclusive jurisdiction of the Courts of Delaware. Notwithstanding the foregoing nothing in this Agreement shall preclude Workbooks from enforcing its rights in a court of any competent jurisdiction or preclude either party from seeking injunctions from any court of competent jurisdiction in order to protect its Intellectual Property Rights or Confidential Information.

SERVICE TERMS

The following section sets out further terms that apply in addition to the General Terms to particular Services.

SERVICE TERMS: WORKBOOKS CRM SERVICE (INCLUDING EXTENSIONS AND MODULES)

Defined terms used in these Service Terms shall have the same meaning as set out in the section headed **General Terms** of the Agreement or as otherwise set out below.

"Data Enrichment Module"	means the module with the Workbooks CRM Service which activates the Data Enrichment Tools, which can be found under the service configuration;
"Data Enrichment Tools"	means various features within the Workbooks CRM Service which allow customers to enrich data;
"FullContact"	means Full Contact Inc a corporation based at 1755 Blake Street, Suite 450, Denver, Colorado, 80202, United States;
"FullContact Data"	means data added to the Workbooks CRM Service using the Data Enrichment Tools, which originated from FullContact;
"Permitted Users"	means the permitted users who are enabled for login to the Workbooks CRM Service, being individuals authorised by the Customer including the Customer's employees, agents or contractors;
"Subscription Fees"	means the fees payable by the Customer for the Workbooks CRM Service as set out on an Order which is priced on a per user basis for the relevant Subscription Term including any fees payable for Extensions or Modules;
"Subscription Term"	means the term of the subscription for the Workbooks CRM Service as documented in the Order: either an "Initial Subscription Term", or one or more "Renewal Subscription Term(s)" each respectively stating a start date ("Start Date") and end date ("End Date");
"User Subscriptions"	means the number of subscriptions purchased by the Customer as set out on an Order which entitles Permitted Users to access and use the Workbooks CRM Service in accordance with the terms of the Agreement.

1. Workbooks CRM Service

- 1.1 Subject to payment of the Subscription Fees, Workbooks grants the Customer, during the Subscription Term a non-transferable, non-exclusive and revocable licence to:

- 1.1.1 use and allow the Permitted Users to use the Workbooks CRM Service solely for the Customer's own internal business operations; and
 - 1.1.2 use the Service Documentation solely for its own business use.
- 1.2 To the extent that the Workbooks CRM Service is specifically designed to allow the Customer's customers and suppliers to interact with the Customer in the furtherance of the Customer's internal business operations, such use is allowed under this Agreement notwithstanding the Customer is responsible for their compliance with this Agreement during such use and provided such persons are within the User Subscriptions. The Customer may not reduce the quantity of User Subscriptions or Extensions or Modules during a Subscription Term.
- 1.3 Subject to the terms and conditions of this Agreement, Workbooks will use all reasonable endeavours to:
 - 1.3.1 deliver the Workbooks CRM Service using the degree of care, skill and diligence which would (at the relevant time) be reasonably expected of a professional supplier of the Services;
 - 1.3.2 ensure that the Workbooks CRM Service will be performed by appropriately qualified and trained employees, with due care and diligence;
 - 1.3.3 ensure that the Workbooks CRM Service conforms in all material respects with the descriptions set out in the Service Documentation;
 - 1.3.4 provide Technical Support to the Customers' Authorised Customer Support Contacts.
- 1.4 Payment of the Subscription Fees entitles the Customer to:
 - 1.4.1 Two (2) Authorised Customer Support Contacts per Subscription Term for the Workbooks CRM Service, with one (1) additional Authorised Customer Support Contact for every fifty (50) Permitted Users of the Workbooks CRM Service.
 - 1.4.2 Two (2) Authorised Customer Support Contacts per Subscription Term for the Workbooks Marketing Automation Service.
- 1.5 The Subscription Fees are based on the Workbooks CRM Service purchased for the Subscription Term and not on actual usage.
- 1.6 Any Extensions added must be purchased for all Permitted Users but Modules can be purchased for those Permitted Users who require use of them.
- 1.7 Workbooks may recommend Third Party Applications or services, including implementation, customization and other consulting services related to Customers' use of the Workbooks CRM Service. Except as set out in the Order, Workbooks does not warrant the availability, suitability or reliability any such Third Party Applications or services, regardless of whether or not such Third Party Applications or services are provided by a third party that is a member of a Workbooks partner program or

otherwise designated by Workbooks as "authorised," "approved" or "recommended." Any procurement by Customer of any Third Party Applications or services is solely between Customer and the applicable third party provider. Workbooks is not responsible for any other aspect of such Third Party Applications or services that Customer may procure or connect to through the Service, or any descriptions, promises or other information related to the foregoing. If Customer installs or enables Third Party Applications or services for use with the Service, Customer agrees that Workbooks may allow such third party providers to access Customer Data as required for the interoperation of such Third Party Applications with the Service, and any exchange of data or other interaction between Customer and a third party provider is solely between Customer and such third party provider. Workbooks shall not be responsible for any disclosure, modification or deletion of Customer Data resulting from any such access by Third Party Applications or third party providers.

- 1.8 Technical Support included within the Subscription Fees paid in relation to the Workbooks CRM Service shall include support for non-modified Workbooks Published Scripts, however Technical Support does not extend to support for (i) Workbooks Published Scripts which have been modified by the Customer or any third party acting on their behalf, (ii) scripts produced as part of a Consultancy Project ("Workbooks Custom Scripts"), (iii) other Third Party Applications including scripts produced by Workbooks partners. Support or assistance may be provided to the Customer through the procurement of Consultancy Services.
- 1.9 The Subscription Fees shall be invoiced annually at the start of the Subscription Term and on each subsequent anniversary during the Subscription Term.
- 1.10 The Customer undertakes that the maximum number of Permitted Users that it authorises to access and use the Workbooks CRM Service shall not exceed the number of User Subscriptions it has purchased. For the avoidance of doubt (i) a Permitted User must be one unique person; (ii) multiple people must not share user credentials and (iii) if an individual no longer needs to access the Workbooks CRM Service the Customer may assign the licence to another individual. If the Customer knows or believes that it is or may be exceeding the number of Permitted Users it must inform Workbooks immediately and (i) reduce the number of Permitted Users to the authorised amount, or (ii) place an Order for additional User Subscriptions as necessary. The Customer agrees that Workbooks may from time to time audit the number of Permitted Users on the Workbooks CRM Service.
- 1.11 The Customer agrees that prior to purchasing the Workbooks Outlook Connector it is its responsibility to check that they fulfil the technical requirements outlined at www.workbooks.com/outlook_connector_system_requirements.

2. **Data Enrichment**

- 2.1 By enabling the Data Enrichment Module within the Workbooks CRM Service the Customer agrees to abide by these terms set out in this clause 2 (Data Enrichment).
- 2.2 The Customer acknowledges that:
 - 2.2.1 They do not own the FullContact Data, but do have the right to use the data subject to the terms defined in this agreement.

- 2.2.2 The FullContact Data may only be used within the Workbooks CRM Service and not be exported or used in any other system.
 - 2.2.3 The FullContact Data may be deleted if Workbooks and FullContact terminate their commercial agreement.
 - 2.2.4 The FullContact Data will be deleted at the end of their contract term and may not be exported.
- 2.3 The Customer will not use the FullContact Data for:
- 2.3.1 cookie tracking, ad exchanges, ad networks, data brokerages or sending electronic communication, including email in violation of Applicable Law.
 - 2.3.2 Determining any person's employability, credit worthiness, credit standing credit capacity or any other characteristics related to such a person's manner or mode of living.
- 2.4 Workbooks will tag all FullContact Data in the Workbooks CRM Service, so it can be identified by the Customer. FullContact Data will appear in reports with an **f** character appended to the field values.

3. **Trial and Free Subscriptions**

- 3.1 Where the Customer registers for a Workbooks Trial Subscription or Workbooks Free Edition, the Customer shall be entitled to use the Workbooks CRM Service on a trial basis free of charge until the earlier of (a) the Start Date of the Subscription Term (where the Customer subsequently subscribes) or (b) the end of the trial or free subscription, subject to the terms of this Agreement. At the end of the trial or free subscription, the Customer must pay any applicable Fees or this Agreement will automatically terminate.
- 3.2 Any data that the Customer inputs into the Workbooks CRM Service, together with any customisation made by the Customer to the Workbooks CRM Service, will be permanently lost unless the Customer purchases and pays for a User Subscription for the same Workbooks CRM Services as covered by the trial or free subscription, or exports the data prior to the end of the trial or free subscription. If the Customer purchases a User Subscription which is a downgrade from the version trialled e.g. purchase Workbooks CRM having trialled Workbooks Business, Workbooks cannot guarantee that any customisations or data will be maintained. Subscription to the Workbooks Free Edition, as described on www.workbooks.com/pricing may be obtained subject to the terms of this Agreement for use by the Customer on successive ninety (90) day periods.
- 3.3 Notwithstanding any warranties given by Workbooks in the Agreement, provision of the Workbooks CRM Service during a trial or free subscription is on an **AS IS** basis without any warranties by Workbooks and Workbooks shall have no indemnification obligations relating to the Workbooks CRM Service. Without limiting the foregoing, Workbooks gives no warranty during the trial or free subscription that the Workbooks CRM Service will meet the Customer's requirements or be uninterrupted or error free and accordingly the provisions set out in the Schedule 1 of these Service Terms below shall not apply and Workbooks shall have no obligation to provide any technical support to the Customer under the section in the Agreement headed **Technical Support**. The

Customer is fully liable under this Agreement for its use of the Workbooks CRM Service during a trial or free subscription and for any and all losses or liabilities that it may incur as a result of such use.

4. Data Storage Limits

- 4.1 The amount of database storage i.e. of emails, electronic documents, images and application data is limited. Data Storage volumes are calculated by Workbooks every 24 hours and will include Customer Data and the indexes and other related items which together support the delivery of the Services to the Customer. The Data Storage limit for subscribers to the Workbooks Free Edition is 1GB. The limit for all other subscribers is 10GB plus any additional storage capacity purchased by the Customer. Any Customers using database storage in excess of their limits may a) in the case of Workbooks Free Edition subscribers, be required to upgrade to a paid subscription; or b) in the case of all other Customers be charged additional Subscription Fees for the additional storage. Workbooks will inform Customers before any additional storage charges are levied and allow customers fifteen (15) days to reduce the amount of database storage used after which a) in the case of Workbooks Free Edition subscribers, they are required to upgrade to a paid subscription or have their Workbooks account suspended; or b) in the case of all other Customers, be charged for the additional data storage.

5. Service Levels

- 5.1 Workbooks warrants that during the Subscription Term the Workbooks CRM Service will meet the service levels specified in the Service Level Agreement listed in Schedule 1. 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 service credit in accordance with the terms set forth in Schedule 1. Customer agrees that Workbooks system logs and other records shall be used to calculate service levels.

SCHEDULE 1 OF SERVICE TERMS: WORKBOOKS CRM SERVICES

Service Level Agreement

Workbooks commit to provide 99.5% service availability for the Workbooks CRM Service during each month of the service ("Service Availability Guarantee"). Service availability is defined as the Customer's ability to login to the Workbooks CRM 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/login>

If in any month the Service Availability Guarantee is not achieved 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 usage of the Workbooks CRM Service.

Maintenance Periods

Maintenance periods are excluded from the Service Availability Guarantee. Maintenance of the Workbooks CRM Service is required from time-to-time to ensure the continued reliability of the Service. Scheduled maintenance will occur every Saturday between 03:00 and 09:00 GMT. Additional maintenance periods may be scheduled from time to time 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.

Service Credit Request

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

Following the successful acknowledgement of the service credit by Workbooks, the Customer's current Subscription Term will be extended to include the additional service credit period.

SERVICE TERMS: WORKBOOKS MARKETING AUTOMATION SERVICE

WEB INSIGHTS

Defined terms used in these Service Terms shall have the same meaning as set out in the section headed **General Terms** of the Agreement or as otherwise set out below.

Definitions

"Web Insights" means the service provided by Workbooks which allows the Customer to track and collect website visitor information and store that information inside the Workbooks CRM Service as more fully described in the Service Description;

"Tracking Code" means javascript software the Customer must install on their website to enable Web Insights to capture visitor information relating to visitors accessing the Customer's website, including pages viewed, IP address, referring website and information stored in cookies within the visitor browser and passes this visitor information to the Gatorleads Service;

"Gatorleads Service" means the cloud based platform, provided by Communigator which receives visitor information from the Tracking Code and makes such information available to the Workbooks Insights Connector as more fully described in the Service Description;

"Communigator" means Communigator Limited, company registration number 5419529 registered in England and Wales and trading from The Old Bury, Peper Harow, Goldaming, Surrey, GU8 6BQ;

"Workbooks Insights Connector" means the set of automations which are installed within the Customer's Workbooks account from the script library within the Workbooks Process Engine which connect to the Gatorleads Service and extracts the visitor information into the Workbooks CRM Service;

"Permitted Monthly Page Views" means the number page views the Customer's website receives during a calendar month.

"Authorised Domain Names" means the Customer's website which will be using the Web Insights as defined on the Order.

Customer Data

The Customer acknowledges that for the purposes of this Agreement Communigator is acting as a subprocessor (a third party data processor) and has or potentially will have access to Customer Data, (which may contain Personal Data) held in the Gatorleads Service platform.

Service Usage and Pricing

Workbooks Web Insights is charged on an annual basis. The price is based on the number of page visits a website receives within a monthly period and is as set out in the Price List.

If a Customer exceeds their Permitted Monthly Page Views for two full consecutive calendar months, Workbooks reserves the right to automatically upgrade them to the appropriate band for the remainder of the prevailing contract term.

The Web Insights service can only be used on the Authorised Domains Names defined on the Order.

The monthly page views you are entitled to are defined on the Order. The monthly page views you are entitled to are defined on the Order.

Support and Service Levels

Technical Support for Web Insights is provided on the terms set out in the section of the Agreement headed **Technical Support**. The Customer acknowledges that CommuniGator may assist in providing Technical Support from time to time.

The Service Availability Guarantee as described in the **Service Terms: Workbooks CRM Service** does not apply to Web Insights.

GATORMAIL

Defined terms used in these Service Terms shall have the same meaning as set out in the section headed **General Terms** of the Agreement or as otherwise set out below.

Definitions

"Communigator" means Communigator Limited, company registration number 5419529 registered in England and Wales and trading from The Old Brye, Peper Harow, Goldaming, Surrey, GU8 6BQ;

"GatorMail Platform" means the cloud based service provided by Communigator which is included as part of the Workbooks GatorMail Service.

"Permitted Annual E-mail Volume" means the number email messages the client may send during a 12 month period.

"Workbooks CRM Service" means the Workbooks CRM Edition and Workbooks Business Edition, as more fully described in the Service Description;

"Workbooks GatorMail" means the service provided by Workbooks which allows the Customer to send mass e-mail communications and build email workflows as more fully described in the Service Description;

Service Usage and Pricing

Workbooks GatorMail is charged on an annual basis. The price is based on the number of emails sent per year. The pricing is as set out in the Price Lists.

If a Customer is subscribed to another Workbooks CRM Service, they may purchase a licence which enables them to co-term. This will be charged on a pro-rata basis and will entitle them to a pro-rata number of emails sent per year. If a Customer exceeds their Permitted Annual Email Volume they will be unable to send any further email from the platform until they have ungraded their licence subscription to a higher annual volume for the remainder of their current subscription term.

Support and Service Levels

Technical support for GatorMail is provided on the terms set out in the section of the Agreement headed **Technical Support**. The Customer acknowledges that a third party provider - CommuniGator - may assist in providing Technical Support from time to time.

The Service Availability Guarantee as described in the **Service Terms: Workbooks CRM Service** does not apply to GatorMail.

SERVICE TERMS: CONSULTANCY SERVICES

Defined terms used in these Service Terms shall have the same meaning as set out in the section headed **General Terms** of the Agreement or as otherwise set out below.

Definitions

"Advisory Points" means advisory points purchased in advance for Consultancy Services as further described on the Site;

"Consultancy Fees" means the fees payable by the Customer to Workbooks for the Consultancy Services as set out on an Order;

"Consultancy Services" means any professional services which the Customer may have ordered from time to time including customised training courses, implementation consultancy, data migration, script writing all or any of which may form part of a defined scope of work ("Consultancy Project"), or any Workbooks branded professional services as advertised on the Site including, but not limited to, the Advisory Service, Customer Success Plus or scheduled Workbooks Admin Training courses;

1. Where the Customer directly engages Workbooks to provide Consultancy Services, as evidenced by an Order between Workbooks and the Customer the provisions set out in these **Service Terms: Consultancy Services** shall also apply.
 - 1.1 Unless expressly stated otherwise on the Order, the Consultancy Services shall be provided on a time and materials basis, in accordance with prevailing charge out rates, as set out on the Order.
 - 1.2 The Consultancy Fees are exclusive of Workbooks' reasonable expenses e.g. travel, hotel, subsistence, cancellation, all of which shall be paid by the Customer at Workbooks' current rates as set out in the Order.
 - 1.3 The Customer shall nominate a contact ("Project Manager") who will be responsible for scheduling the Customers' resources, agreeing a project schedule and confirming specific dates on which Workbooks can deliver the Consultancy Services (the **"Consultancy Project"**).
 - 1.4 The Customer shall perform in a timely and professional manner any and all obligations that are required for the provision of the Consultancy Services including:
 - 1.4.1 provision of access to Customer premises, computer systems and/or data as is necessary;
 - 1.4.2 affording Workbooks reasonable working conditions and facilities, promptly and within agreed timescales furnishing the information requested of the Customer, for example where data must be provided for import into the Workbooks CRM Service, or in relation to any other aspect of the Consultancy Services and to ensure its agents and employees co-operate with Workbooks.

- 1.5 Once the dates for the Consultancy Services, (including Workbooks Admin Training Courses) have been agreed by the Customer and Workbooks, the Customer may reschedule the days at no charge up to 10 full working days ahead of the agreed dates. If the Customer wishes to reschedule the agreed dates between 5 – 9 full working days prior to the agreed dates, Workbooks retains the right to charge 50% of the Consultancy Fees agreed. If the Customer wishes to reschedule agreed consultancy dates less than 5 full working days prior to the agreed dates, Workbooks retains the right to charge 100% of the Consultancy Fees agreed. In the event the Customer reschedules the agreed dates and Workbooks can utilise the consultancy days for another customer, no charges will be made;
- 1.6 In the event the Customer reschedules pre-agreed Consultancy Services dates, Workbooks shall endeavour to accommodate such changes with minimum disruption, however the Customer agrees that the estimated project delivery date and future pre-booked consultancy days may be affected and Workbooks shall have no liability for any resultant delay in the Consultancy Project. The Customer agrees that the assigned Workbooks consultant may no longer be available, and that any costs incurred in handing the project over to another Workbooks consultant is in addition to the Consultancy Services on the Order and will be invoiced accordingly.
- 1.7 Any unused Advisory Points shall lapse at the end of (a) the current Subscription Term as detailed on an Order, or (b) twelve (12) months from date of Order, whichever is the later, and any Consultancy Services purchased under Customer Success Plus program can be carried forward for three (3) months at which point they shall lapse. The Customer's attendance on a scheduled Workbooks System Admin course must take place within twelve (12) months of the date of the Order.
2. A Consultancy Project may be put on hold or suspended ("On-Hold") by Workbooks for the following reasons:
 - 2.1 non-payment of any Fees;
 - 2.2 changes in Customer resource availability or project sponsorship which result in the Consultancy Project not being viable at the current time;
 - 2.3 changes in Consultancy Project requirements that impact the project budget and/or scope and/or timescales which require sign-off by the Customer, should that sign-off not be received within two (2) weeks of notification of such change by Workbooks;
 - 2.4 the Customer has ordered more Consultancy days than are required for completion of a specific phase of a Consultancy Project and is not yet ready to use that time;
3. If a Consultancy Project is placed On-Hold in accordance with Clause 2, Workbooks shall notify the Primary Contact as provided in accordance with Clause 2 and the Project Manager in writing. Workbooks reserves the right to raise Consultancy Fees for any Consultancy Services work performed to date and to reallocate any Workbooks consultants assigned to the Consultancy Project. Should a Consultancy Project remain On-Hold for more than three (3) months with no change or re-confirmation of a start date by the Customer, Workbooks reserves the right to cancel any remaining Consultancy days. In the event that the Customer has been invoiced for Consultancy days not utilised, these shall be forfeited by the Customer. Advisory Points or Customer

Success Plus days will continue to be available for use until they expire in accordance with Clause 1.7.

4. Workbooks warrants that (a) subject to compliance by the Customer of its obligations in these **Service Terms: Consultancy Services**, the Consultancy Services will be provided in a timely and professional manner and Workbooks shall use its reasonable endeavours to comply with any time schedules agreed in writing between the parties and (b) the Consultancy Services will be provided with reasonable skill and care and will conform to the standards generally observed in the industry for similar services. For any breach of this warranty, the Customer's exclusive remedy and Workbooks' entire liability shall be the re-performance of the deficient Consultancy Services, or, if Workbooks cannot substantially correct a breach in a reasonable manner, the Customer may end the relevant Consultancy Services and recover the Consultancy Fees paid for the deficient services.

TECHNICAL SUPPORT

Workbooks will endeavour to provide Technical Support for Customers between 9:00am until 5:30pm Eastern Standard Time, weekdays, excluding U.S. Federal Holidays.

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 must be logged by any one of the Customer's Authorised Customer Support Contacts, who can contact Workbooks Customer

Support either by telephone, or emailing Support@workbooks.com or by registering a support case at www.workbooks.com/support

The Customer should endeavour to provide as much information as possible relating to the case, including the name of the user experiencing the issue, date/time, screen/view/report.

Workbooks' reserves the right to email Authorised Customer Support Contacts with information about the Workbooks service, such as upgrade notifications, service improvements or service incidents.

If you have purchased Services via a Workbooks Partner, any support cases need to be raised with the Partner in the first instance.

DATA PROCESSING ADDENDUM

This Data Processing Addendum ("Addendum") forms part of the Master Services Agreement ("Agreement") between Workbooks and the Customer.

The terms used in this Addendum shall have the meanings set out below or as set out in the Agreement (where not defined below). Except as modified below, the terms of the Agreement shall remain in full force and effect. In consideration of the mutual obligations set out in this Addendum, the parties agree that this Addendum replaces any previously applicable terms relating to their subject matter from the Effective Date. Except where the context requires otherwise, references in this Addendum to the Agreement are to the Agreement as amended by and including this Addendum.

DEFINITIONS

In this Addendum:

- | | |
|--------------------------|---|
| "Appropriate Safeguards" | means such legally enforceable mechanism(s) for transfers of Personal Data outside the EEA as may be permitted under Data Protection Laws from time to time; |
| "Data Controller" | has the meaning given to that term (or to the term 'controller') in Data Protection Laws; |
| "Data Processor" | has the meaning given to that term (or to the term 'processor') in Data Protection Laws; |
| "Data Protection Laws" | <p>means any applicable UK, US or EU law relating to the processing, privacy, and use of Personal Data, as applicable to Workbooks and/or the Services including:</p> <ul style="list-style-type: none">(i) the Data Protection Act 1998;(ii) the EU Data Protection Directive (95/46/EC) as implemented in each relevant jurisdiction;(iii) the Privacy and Electronic Communications (EC Directive) Regulations 2003 and the EU Privacy and Electronic Communications Directive 2002/58/EC as implemented in each relevant jurisdiction; and(iv) the GDPR from the date the GDPR applies (as set out in Article 99 Entry into force and application); <p>and any corresponding or equivalent national laws or regulations and any amending, equivalent or successor legislation to any of the above from the date that they come into force and the guidance and codes of practice issued by the Information Commissioner or any other supervisory authority in any relevant jurisdiction;</p> |

"Data Protection Losses"	means any costs (including legal costs), liabilities, claims, demands, actions, settlements, interest, charges, expenses, losses, damages, administrative fines, penalties, sanctions, costs of compliance with an investigation by a Supervisory Authority and/or compensation ordered by a Supervisory Authority;
"Data Subject"	has the meaning given to that term in Data Protection Laws;
"Data Subject Request"	means a request made by a Data Subject to exercise any rights of Data Subjects under Data Protection Laws;
"Effective Date"	means as applicable either (i) the GDPR Date if the Customer has entered into the Agreement on or before such date; or (ii) the date on which the Customer enters into the Agreement if such date is after the GDPR Date;
"GDPR"	means the General Data Protection Regulation (EU) 2016/679;
"GDPR Date"	means from when the GDPR applies on 25 May 2018;
"Personal Data"	has the meaning given to that term in Data Protection Laws;
"Personal Data Breach"	means any breach of security by Workbooks leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, any Protected Data on systems managed by or otherwise controlled by Workbooks;
"processing"	has the meanings given to that term in Data Protection Laws (and related terms such as process have corresponding meanings);
"Processing Instructions"	has the meaning given to that term in clause 4.1.1;
"Protected Data"	means Personal Data processed by Workbooks on behalf of the Customer in connection with the provision of Services and/or performance of Workbooks' obligations under the Agreement;
"Sub-Processor"	means another Data Processor engaged by Workbooks for carrying out processing activities in respect of the Protected Data as part of the Services on behalf of the Customer;
"Supervisory Authority"	means any local, national or multinational agency, department, official, parliament, public or statutory person or any government or professional body, regulatory or supervisory authority, board or other body responsible for administering Data Protection Laws; and
"Term"	means the period from the Effective Date until the end of the Agreement.

1. TERM

- 1.1 This Addendum will take effect on the Effective Date and, notwithstanding expiry of the Term, remain in effect until and automatically expire upon deletion of all Protected Data by Workbooks as described in this Addendum.

2. SCOPE

- 2.1 This Addendum will only apply to the extent that the Data Protection Laws apply to the processing of Protected Data by Workbooks as Data Processor.

3. DATA PROCESSOR AND DATA CONTROLLER

- 3.1 The parties agree that, in relation to the Protected Data, the Customer is the Data Controller and Workbooks is the Data Processor.
- 3.2 Workbooks shall process Protected Data in compliance with:
 - 3.2.1 the obligations of Data Processors under Data Protection Laws in respect of the performance of its obligations under this Addendum and the Agreement; and
 - 3.2.2 the terms of this Addendum.
- 3.3 The Customer shall comply with:
 - 3.3.1 all Data Protection Laws in connection with the processing of Protected Data and the exercise and performance of its respective rights and obligations under this Addendum and the Agreement, including maintaining all relevant regulatory registrations and notifications as required under Data Protection Laws; and
 - 3.3.2 the terms of this Addendum.
- 3.4 The Customer warrants that:
 - 3.4.1 all Protected Data shall comply in all respects, including in terms of its collection, storage and processing (which shall include the Customer providing all of the required fair processing information to, and obtaining all necessary consents from, relevant Data Subjects), with Data Protection Laws;
 - 3.4.2 all instructions given by it to Workbooks in respect of Personal Data shall at all times be in accordance with Data Protection Laws; and
 - 3.4.3 it has complied with its obligations as a Data Controller.
- 3.5 The Customer shall not withhold, delay or condition its agreement to any change requested by Workbooks to the Services in order to ensure the Services and Workbooks (and each Sub-Processor) can comply with Data Protection Laws.

4. INSTRUCTIONS AND DETAILS OF PROCESSING

- 4.1 Insofar as Workbooks processes Protected Data on behalf of the Customer, Workbooks:
- 4.1.1 unless required to do otherwise by applicable law, shall (and shall take steps to ensure each person acting under its authority shall) process the Protected Data only on and in accordance with the Customer's documented instructions as set out in this clause 4 and Schedule 1 (Data processing details), as updated from time to time upon written agreement between the parties and/or as further specified via the Customer's use of the Services (**Processing Instructions**);
 - 4.1.2 if applicable law requires it to process Protected Data other than in accordance with the Processing Instructions, shall notify the Customer of any such requirement before processing the Protected Data (unless applicable law prohibits such information on important grounds of public interest).
- 4.2 The processing of Protected Data to be carried out by Workbooks under this Addendum shall comprise the processing set out in Schedule 1 (Data processing details), as may be updated from time to time upon written agreement between the parties.
- 4.3 If the Customer uses any Third Party Application, this Addendum does not apply to the processing of any Personal Data in connection with the provision of that Third Party Application and any responsibility for the processing of such Personal Data is as between the Customer and the relevant third party provider.

5. TECHNICAL AND ORGANISATIONAL MEASURES

- 5.1 Workbooks shall implement and maintain, at its cost and expense, appropriate technical and organisational measures to:
- 5.1.1 ensure the security, integrity, availability and confidentiality of the Protected Data and protect against accidental loss or destruction of, or damage to Protected Data, such measures to be appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected having regard to the state of technological development and the cost of implementing any measures;
 - 5.1.2 taking into account the nature of the processing, assist the Customer insofar as is possible in the fulfilment of the Customer's obligations to respond to Data Subject Requests relating to Protected Data.

6. USING STAFF, SUB-CONTRACTORS AND OTHER PROCESSORS

- 6.1 The Customer acknowledges and agrees that Workbooks engages Sub-Processors and Sub-Contractors to host and provide some of the Services. Details of the Sub-Processors and Sub-Contractors are as set out in the [Sub-Processors and Sub-Contractors Policy](#) and the Customer provides general consent to Workbooks engaging such Sub-Processors

- 6.2 Workbooks shall prior to the relevant Sub-Processor carrying out any processing activities in respect of the Protected Data, appoint each Sub-Processor under a written contract containing obligations which offer materially the same level of protection for the Protected Data as those set out in this Addendum. The Customer acknowledges and agrees that it has no right to audit and inspect a Sub-Processor's facilities and premises and that Workbooks shall not be obliged to include such rights in its agreement with its Sub-Processors.
- 6.3 Workbooks shall ensure that all persons authorised by it (or by any Sub-Processor) to process Protected Data are subject to an obligation to keep the Protected Data confidential (except where disclosure is required in accordance with applicable law, in which case Workbooks shall, where practicable and not prohibited by applicable law, notify the Customer of any such requirement before such disclosure).

7. ASSISTANCE WITH THE CUSTOMER'S COMPLIANCE AND DATA SUBJECT RIGHTS

- 7.1 Workbooks shall promptly refer all Data Subject Requests it receives to the Customer upon receipt of the request, and shall, at the Customer's cost at Workbooks' standard rates in force at the time, assist the Customer with Data Subject Requests.
- 7.2 Workbooks shall provide such reasonable assistance as the Customer reasonably requires (taking into account the nature of processing and the information available to Workbooks) to the Customer in ensuring compliance with the Customer's obligations under Data Protection Laws with respect to:

7.2.1 security of processing;

7.2.2 data protection impact assessments (as such term is defined in Data Protection Laws);

7.2.3 prior consultation with a Supervisory Authority regarding high risk processing; and

7.2.4 notifications to the Supervisory Authority and/or communications to Data Subjects by the Customer in response to any Personal Data Breach,

provided the Customer shall pay Workbooks' charges for providing the assistance in this clause 7.2, at Workbooks' standard rates in force at the time.

8. DATA TRANSFERS

- 8.1 Workbooks uses certain Sub-Processors (as set out in the Sub-processors and Sub-contractors Policy as may be amended from time to time) to assist in providing some of the Services. Some of these Sub-Processors are based outside of the European Economic Area as shown in the Sub-processors and Sub-contractors Policy. Where the Customer contracts with Workbooks for the provision of any Services that involve a transfer to a Sub-Processor outside of the European Economic Area, the Customer agrees to the transfer outside of the European Economic Area subject to Workbooks' compliance with clause 8.2 below.

- 8.2 Where a Sub-Processor is based out of the European Economic Area, Workbooks shall ensure that there are Appropriate Safeguards in place and that any transfer will be in accordance with Data Protection Laws.

9. RECORDS, INFORMATION AND AUDIT

- 9.1 Workbooks shall maintain, in accordance with Data Protection Laws binding on Workbooks, written records of all categories of processing activities carried out on behalf of the Customer.
- 9.2 Workbooks shall, in accordance with Data Protection Laws, make available to the Customer such information as is reasonably necessary to demonstrate Workbooks' compliance with the obligations of Data Processors under Data Protection Laws, and allow for and contribute to audits, including inspections, by the Customer (or another auditor mandated by the Customer and agreed by Workbooks) for this purpose, subject to clause 6.2 and subject to the Customer:
- 9.2.1 giving Workbooks reasonable prior notice of such information request, audit and/or inspection being required by the Customer;
 - 9.2.2 ensuring that all information obtained or generated by the Customer or its auditor(s) in connection with such information requests, inspections and audits is kept strictly confidential (save for disclosure to the Supervisory Authority or as otherwise required by applicable law);
 - 9.2.3 ensuring that such audit or inspection is undertaken during normal business hours in England, with minimal disruption to Workbooks' business and the business of other customers of Workbooks; and
 - 9.2.4 paying Workbooks' reasonable costs for assisting with the provision of information and allowing for and contributing to inspections and audits.
- 9.3 Workbooks may object to any third party auditor appointed by the Customer to conduct any audit under clause 9.2 if the auditor is not in Workbooks' reasonable opinion, suitably qualified or independent.
- 9.4 Nothing in clause 9.2 gives the Customer any right to access any data of any other customer of Workbooks or any information that could cause Workbooks to breach its obligations under Data Protection Laws and/or its confidentiality or privacy obligations to any third party.

10. BREACH NOTIFICATION

- 10.1 In respect of any Personal Data Breach involving Protected Data, Workbooks shall, without undue delay notify the Customer of the Personal Data Breach and provide the Customer with details of the Personal Data Breach.
- 10.2 In the event that the Customer becomes aware of a Personal Data Breach by Workbooks or otherwise in connection with the Services, it shall without undue delay notify Workbooks of the Personal Data Breach and provide Workbooks with details of the Personal Data Breach.

- 10.3 As the Data Controller, the Customer is solely responsible for complying with its notification obligations for Personal Data Breaches under Data Protection Laws, including providing notification to the relevant Supervisory Authority and Data Subjects (where applicable).

11. DELETION OR RETURN OF PROTECTED DATA AND COPIES

- 11.1 Workbooks shall, at the Customer's written request, either delete or enable the Customer to download all the Protected Data within a reasonable time after the end of the provision of the relevant Services related to processing and delete existing copies (unless storage of any data is required by applicable law and, if so, Workbooks shall inform the Customer of any such requirement). In the event that no request is received by Workbooks within a period of ninety (90) days from expiry of the Term, Workbooks shall automatically delete the Protected Data.

12. LIABILITY

- 12.1 The Customer shall indemnify and keep indemnified Workbooks in respect of all Data Protection Losses suffered or incurred by, awarded against or agreed to be paid by, Workbooks and any Sub-Processor arising from or in connection with any:

12.1.1 non-compliance by the Customer with the Data Protection Laws;

12.1.2 processing carried out by Workbooks or any Sub-Processor pursuant to any Processing Instruction that infringes any Data Protection Law; or

12.1.3 breach by the Customer of any of its obligations under this Addendum,

except to the extent Workbooks is liable under clause 12.2.

- 12.2 Workbooks' liability for any Data Protection Losses (howsoever arising, whether in contract, tort (including negligence) or otherwise) under or in connection with this Addendum is limited to the extent caused by the processing of Protected Data by Workbooks under this Addendum and where such Data Protection Losses result directly from Workbooks' breach of clauses 1 to 11 (inclusive) and are not contributed to or caused by any breach by the Customer of Data Protection Laws, this Addendum and/or the Agreement.

- 12.3 The liability of Workbooks under or in connection with this Addendum (howsoever arising, whether in contract, tort (including negligence), statutory duty or otherwise) is subject to the exclusions and limitations of liability in the Agreement.

- 12.4 The Customer shall not be entitled to claim back from Workbooks any part of any compensation paid by the Customer to a person relating to the processing of Protected Data, to the extent that the Customer is liable to indemnify Workbooks under clause 12.1.

13. UPDATES

- 13.1 Workbooks may amend this Addendum at any time as permitted in the Agreement including where required to comply with any applicable law or where the amendments

do not result in a material reduction in the protection of Protected Data and/or do not breach Data Protection Laws.

14. LAW AND JURISDICTION

- 14.1 This Addendum is governed by the laws of The State of Delaware and the Courts of Delaware shall have exclusive jurisdiction.

SCHEDULE 1 DATA PROCESSING DETAILS

Detail	Description
1 <i>Subject-matter of processing:</i>	<ul style="list-style-type: none">• <i>The processing of Personal Data to the extent necessary in the provision of the Services.</i>
2 <i>Duration of the processing:</i>	<ul style="list-style-type: none">• <i>For the duration of the provision of the Services until deletion of all Protected Data by Workbooks in accordance with this Addendum.</i>
3 <i>Nature and purpose of the processing:</i>	<ul style="list-style-type: none">• <i>The processing of Personal Data to the extent necessary in the provision of the Services.</i>
4 <i>Type of Personal Data:</i>	<ul style="list-style-type: none">• <i>Personal Data relating to individuals that is provided to Workbooks via the Services by or at the direction of the Customer including without limitation names, addresses, contact details (including email addresses and telephone numbers), online identifiers, login details</i>
5 <i>Categories of Data Subjects:</i>	<ul style="list-style-type: none">• <i>Individuals about whom Personal Data is provided to Workbooks via the Services by or at the direction of the Customer.</i>