

## 1. Definitions

The following definitions and rules of interpretation apply in these Terms.

### 1.1 Definitions:

- 1.1.1 **"Agreement"** means the agreement between Perfect Portal and the Client for the supply of Services as set out in the Order, in accordance with these Terms;
- 1.1.2 **"Branded App Fees"** means the amount payable for the number of Client Matters in respect of the Branded Update Applications (being the Referrer App and the Client App) as specified on the Order;
- 1.1.3 **"Branded Update Applications"** means the provision of the Perfect Portal Update Applications branded as the Client's application to be used by Client End Users;
- 1.1.4 **"Business Day"** means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
- 1.1.5 **"Client"** means the law firm client who purchases the Services from Perfect Portal;
- 1.1.6 **"Client End Users"** means end users of the Client to include (without limitation): (i) clients of the Client; and (ii) referrers of the Client such as estate agents and mortgage brokers;
- 1.1.7 **"Client Matters"** means the client matters of the Client;
- 1.1.8 **"Commencement Date"** means either the one-month anniversary of the Acceptance Date (as defined at Clause 2.2) or the date that Perfect Portal issues the Login Details to the Client, whichever is earlier;
- 1.1.9 **"Data"** means the Client's information which is intended to be processed and managed by Perfect Portal in accordance with the terms of the Agreement;
- 1.1.10 **"Document"** includes, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form;
- 1.1.11 **"In-put Material"** means all Documents, information and materials provided by the Client relating to the Services, including computer programs, data, reports and specifications;
- 1.1.12 **"Intellectual Property Rights"** means all patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
- 1.1.13 **"ITC"** meant the Client's information technology and communications infrastructure;
- 1.1.14 **"Licence Fees"** means the amount payable in respect of the Services (but for the avoidance of doubt, excluding the amounts payable in respect of the Branded App Services) as specified on the Order;
- 1.1.15 **"Login Details"** means the Client's login details for the Named Users or Client End Users in order to access the Services;
- 1.1.16 **"Named User(s)"** means a user or users of the Client for whom the Services are being purchased as set out on the Order;
- 1.1.17 **"National Helpdesk Services"** means Perfect Portal's helpdesk portal for technical support;
- 1.1.18 **"Order"** means the Client's order for Services as set out in the Client's written acceptance of Perfect Portal's quotation set out in Perfect Portal's order form;
- 1.1.19 **"Perfect Portal Update Applications"** means the Perfect Portal update applications to be accessed by Client End Users in relation to the Client Matters, being the **"Referrer App"** and the **"Client App"**;
- 1.1.20 **"Pre-existing Materials"** means all Documents, information and materials provided by Perfect Portal relating to the Services which existed prior to the commencement of the Agreement, including computer programs, data, reports and specifications;
- 1.1.21 **"Privacy and Data Protection Requirements"** means the Data Protection Act 2018, the General Data Protection Regulation, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (*SI 2000/2699*), the

Electronic Communications Data Protection Directive (*2002/58/EC*), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (*SI 2426/2003*) and all applicable laws and regulations relating to the processing of personal data and privacy (and any successor legislation), including where applicable the guidance and codes of practice issued by the Information Commissioner or any other supervisory authority and the equivalent of any of the foregoing in any relevant jurisdiction;

- 1.1.22 **"Privacy Policy"** means Perfect Portal's Privacy Policy located on the Website;
  - 1.1.23 **"Relevant Date"** as defined in the Order where this is applicable;
  - 1.1.24 **"Services"** means the services to be provided by Perfect Portal under the Agreement as set out in the Order, together with any other services which Perfect Portal provides or agrees to provide to the Client from time to time including (without limitation): (i) access to the Perfect Portal Solution; (ii) usage of the Website Quote Calculator Plug-In; (iii) Rates and Charges updates; (iv) usage of the Website; (v) provision of the Perfect Portal Update Application; and (v) if the Client subscribes for them pursuant to Clause 4, the Branded Update Applications;
  - 1.1.25 **"Perfect Portal Solution"** means the Perfect Portal online system/platform;
  - 1.1.26 **"Perfect Portal"** means Perfect Portal (UK) Limited, incorporated and registered in England and Wales with company number 09287455 whose registered office is at 10 John Street, London, United Kingdom, WC1N 2EB;
  - 1.1.27 **"Terms"** means these terms and conditions of business as amended from time to time in accordance with Clause 18;
  - 1.1.28 **"VAT"** means value added tax chargeable under the Value Added Tax Act 1994;
  - 1.1.29 **"Website"** means Perfect Portal's website located at [www.perfectportal.co.uk](http://www.perfectportal.co.uk);
  - 1.1.30 **"Website Quote Calculator Plug-In"** means the Perfect Portal online quote calculator available via the Perfect Portal Solution; and
  - 1.1.31 **"Year"** means either: (i) the period of 12 months from the Commencement Date (or the Relevant Date if this is defined in the Order); or (ii) any subsequent period of 12 months from any anniversary of the Commencement Date (or the Relevant Date if this is defined in the Order).
- 1.2 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
  - 1.3 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- ## 2 Basis of Contract, Commencement and Duration
- 2.1 The Order constitutes an offer by the Client to purchase the Services in accordance with these Terms.
  - 2.2 The Order shall only be deemed to be accepted when Perfect Portal issues written acceptance of the Order or by starting to provide the Client with the relevant Services, at which point and on which date the Agreement shall come into existence (**"Acceptance Date"**).
  - 2.3 These Terms apply to the Agreement to the exclusion of other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
  - 2.4 Any quotation given by Perfect Portal shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.
  - 2.5 Unless otherwise expressly stated in the Order, the Services supplied under the Agreement shall be supplied from the Commencement Date for an initial period of one (1) year and, after that, shall continue to be supplied on a rolling basis unless the Agreement is terminated by one of the parties giving to the other party not less than 2 (two) months' notice, such notice to expire on the anniversary, or any subsequent anniversary of the Commencement Date (unless terminated earlier by either party in accordance with Clause 13 of the Terms) (**"Term"**).

## 3 Access to the Services

- 3.1 Access to the Services is subject to the availability of resources and Perfect Portal gives no undertaking or guarantee regarding the date of access to, and provision of the Login Details for, the Services. The Client is responsible for providing all In-put Material that Perfect Portal requires in order to provide access to, and provide the Login Details for, the Services.
- 3.2 Unless the Client advises Perfect Portal in writing within 14 days of the Commencement Date, access to the Services will be deemed to have been properly installed and made available to the Client.
- 3.3 The Named Users may access and use the Services on multiple devices. However, only one device per Named User may be used at any one time.
- 3.4 The number of Named Users cannot be reduced during the Term but can be increased by the Client by giving notice to Perfect Portal in writing. Perfect Portal may charge the Client an administration fee for making any changes to the Named Users.
- 3.5 For the avoidance of doubt, if the Client engages any third party (such as a consultant) to carry out any work in connection with the Services, the Client is responsible for any such associated charges (which shall be subject to any agreement in place between the Client and any such third party).

## 4 Branded Update Applications

- 4.1 Following the Commencement Date, the Client may subscribe for the Branded Update Applications by notifying Perfect Portal in writing. Once access has been granted to the Client to the Branded Update Applications, access to the Perfect Portal Update Applications will immediately cease.
- 4.2 The Client shall be invoiced monthly in arrears in respect of the Branded App Fees which shall be determined by the number of Client Matters that use the Referrer App and Client App during the preceding month.

## 5 Perfect Portal's Responsibilities

- 5.1 Perfect Portal shall provide the Services to the Client in accordance with these Terms, and shall provide the following additional benefits:
- 5.1.1 rolling research, development and improvement (upgrades and iterative developments);
  - 5.1.2 access to the National Helpdesk Services;
  - 5.1.3 hosting of the Data and In-Put Material on Perfect Portal's hosting servers; and
  - 5.1.4 access to the free training videos for the Client's support staff and lawyers.
- 5.2 Perfect Portal shall use reasonable endeavours to meet any performance dates specified in the Order but any such dates shall be estimates only and time for performance by Perfect Portal shall not be of the essence for the performance of the Services.
- 5.3 Perfect Portal warrants to the Client that the Services will be provided using reasonable care and skill.
- 5.4 Perfect Portal shall make available to the Client the National Helpdesk Services in connection with the Services from 8.30 am to 5.30 pm on Business Days and in accordance with the following provisions:
- 5.4.1 if the Services are not working Perfect Portal will provide upgrades (or a manual work around) free of additional charges provided that the Client has paid all and any outstanding invoices;
  - 5.4.2 Perfect Portal shall use its best endeavours to ensure the Services are operational as soon as reasonably practicable after receiving a support request to the National Helpdesk Service from the Client; and
  - 5.4.3 Perfect Portal is unable to rectify hardware, operating Services or network problems, or problems relating to any third party software (which is the responsibility of the Client and its ITC).
- 5.5 The Services are subject to the limitations inherent in the use of the internet and other third party communication software and devices, and Perfect Portal accepts no liability for delays, delivery failures, or other damage resulting from their use.

## 6 Client's Obligations

- 6.1 The Client shall:
- 6.1.1 ensure that the terms of the Order are complete and accurate;
  - 6.1.2 co-operate with Perfect Portal in all matters relating to the Services;
  - 6.1.3 safeguard the Login Details and ensure other third parties do not have access to the Login Details (including passwords);

- 6.1.4 immediately notify Perfect Portal of any actual or suspected loss, theft or unauthorised use of the Services or Login Details (including passwords);
  - 6.1.5 conduct its own due diligence regarding the suitability of the Services based upon its own skill and judgement; and
  - 6.1.6 provide, in a timely manner, such In-put Material and other information as Perfect Portal may reasonably require and ensure that it is accurate in all material respects.
- 6.2 The Client hereby agrees to pay to Perfect Portal an administration fee (minimum of £50.00) if the Client requests any update to the design of its client portal within the Website.
- 6.3 The Client shall not, nor authorise any third party to:
- 6.3.1 reproduce, copy, download, scrape, store, re-publish, transmit, transfer, communicate, distribute, disseminate, sell, rent, lend or otherwise use the Services, or any part of the Services, in any form or by any means;
  - 6.3.2 make the Services (save for the App Services) available to any person other than the Named Users;
  - 6.3.3 convert material downloaded from the Services into an electronic format other than the one in which it was supplied;
  - 6.3.4 reverse engineer, decompile, disassemble or otherwise attempt to discern the source code of the components of the Services or reproduce all or any portion of the said components;
  - 6.3.5 combine the whole or any part of the data available on the Services with any other software, data or material; or
  - 6.3.6 redistribute content from the Services (unless content is specifically made for redistribution), without the written consent of Perfect Portal, other than to the extent necessary to view the material as permitted by law.
- 6.4 The Client is solely responsible for any activity conducted via the Services using the Login Details. Perfect Portal shall not be liable for any unlawful or unauthorised access to the Services as a result of the Client's failure to safeguard the Login Details.
- 6.5 The Client shall fully indemnify Perfect Portal in respect of any loss, penalty, fine, costs or expenses whatsoever suffered or incurred whatsoever arising as a result of any unauthorised use of the Services that arises from any failure by the Client to safeguard the Login Details.
- 6.6 If Perfect Portal's performance of its obligations under the Agreement is prevented or delayed by any act or omission of the Client, its agents, subcontractors, consultants or employees, Perfect Portal shall not be liable for any costs, charges or losses sustained or incurred by the Client that arise directly or indirectly from such prevention or delay.

## 7 ITC

- 7.1 The Client shall be responsible for ensuring the ITC is compatible with the Services and the Client hereby acknowledges that:
- 7.1.1 the Services may not operate properly (or at all) if up-to-date versions of the internet browser are not accessible by the Client;
  - 7.1.2 Perfect Portal does not accept any responsibility for defects, data corruptions, service failures or performance degradation caused by viruses or other software or components on the Client's hardware that may interfere with the way that the Services operate;
  - 7.1.3 it is the Client's responsibility to ensure that the ITC is properly maintained and is not changed in a way that may adversely affect access to the Services;
  - 7.1.4 any work done by Perfect Portal due to any failure by the Client to comply with Clause 7.1.1 to Clause 7.1.3, may be charged to the Client at Perfect Portal's standard development rates;
  - 7.1.5 during the Term, Perfect Portal can require mandatory upgrades of the Services to newer versions. This will happen if the Services or any third party component used by Perfect Portal ceases to be supported by their respective vendors, or if Perfect Portal determines that support of the existing version is no longer viable. In such circumstances, Perfect Portal will offer the upgrade free of any additional fees, but may charge fees for data conversion, or refer the Client to a Perfect Portal partner who may also charge additional fees. Should you refuse to accept an upgrade relating to the Services, Perfect Portal reserves the right to immediately terminate the Services pursuant to Clause 14.2.2; and
  - 7.1.6 Perfect Portal reserves the right to refrain from providing the National Helpdesk Services to the Client if the Client's hardware or software of any part of its ITC is non-compliant.

## 8 Client's Acknowledgements

- 8.1 The Client hereby further acknowledges that:
- 8.1.1 Perfect Portal does not warrant or represent that any legal or accounting information, precedents, letters, documents or examples that may be provided to the Client from time to time are correct or up-to-date;
- 8.1.2 the Services are being provided on an "as is" and "as available" basis and Perfect Portal does not guarantee, represent or warrant that the Client's use of the Services will be uninterrupted or error-free;
- 8.1.3 it is responsible for ensuring that all persons who access the Services using the Login Details are aware of the Terms and the Privacy Policy and comply with them;
- 8.1.4 Perfect Portal does not provide any legal advice or legal services, or accounting or bookkeeping advice by providing the Services; and
- 8.1.5 any legal information, practice guides, legal forms, precedents, letters or documents are provided as examples only and are provided on the basis that the Named Users are suitably qualified or working under suitably qualified personnel and will rely on their own knowledge and enquiries as to the accuracy and currency of any information contained in the Services.

## 9 Charges and Payment

- 9.1 In consideration of the provision of the Services by Perfect Portal, the Client shall pay the charges (being the Licence Fees and (if applicable) the Branded App Fees) as set out in the Order (plus VAT, where appropriate).
- 9.2 Perfect Portal shall invoice the Client for the charges that are payable (and VAT, where appropriate). Perfect Portal shall invoice the Client: (i) monthly in arrears in respect of the Branded App Fees; and (ii) monthly in arrears in respect of the Licence Fees, unless otherwise stated in the Order. All invoices shall be submitted by Perfect Portal to the Client to the email address set out in the Order, or to such other email address as the Client may specify to Perfect Portal from time to time.
- 9.3 The Client shall pay each invoice submitted to it by Perfect Portal, in full and in cleared funds, within thirty (30) days of receipt (unless otherwise specified on the relevant invoice) by way of direct debit only using a transaction agent nominated by Perfect Portal in writing.
- 9.4 Without prejudice to any other right or remedy that Perfect Portal may have, if the Client fails to pay Perfect Portal on the due date, the Client (at Perfect Portal's sole discretion) shall pay interest on the overdue amount at the prevailing statutory rate pursuant to the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgement. The Client shall pay the interest together with the overdue amount.
- 9.5 In the event of any direct debits failing for two or more months, the total outstanding amount due for the Services in respect of the relevant Year, shall be immediately due and payable. A dishonour fee may also be charged by Perfect Portal for each failed direct debit.
- 9.6 All amounts due under the Agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 9.7 All charges are exclusive of VAT unless otherwise expressly stated on the Order.
- 9.8 In the event of any debt of the Client being handed to a collections agency, the Client hereby acknowledges that it will be liable for all legal costs in connection with the collection of the debt.

## 10 Intellectual Property Rights

- 10.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Client) shall be owned by Perfect Portal. Perfect Portal licenses all such rights to the Client free of charge and on a non-exclusive, non-transferable, worldwide basis to such extent as is necessary to enable the Client to make reasonable use of the Services in its business for the purposes of supplying legal and conveyancing services.
- 10.2 If the Agreement expires in accordance with Clause 2.5 or is terminated pursuant to Clause 14, this licence will automatically terminate.
- 10.3 The Client shall not sub-licence, assign or otherwise transfer the rights granted in this Clause 10.
- 10.4 The Client owns all Intellectual Property Rights in the Data, its brand, its logo and its trademarks.

## 11 Data Protection

- 11.1 The Client and Perfect Portal acknowledge that for the purposes of the Privacy and Data Protection Requirements, the Client is the data controller and Perfect Portal is the data processor in connection with the provision of the Services from Perfect Portal to the Client.
- 11.2 For the purposes of this Clause 11, the terms "data subject" and "personal data" shall have the meanings given under the General Data protection Regulation and any related Privacy and Data Protection Requirements.
- 11.3 Perfect Portal shall, in relation to any personal data processed in connection with the performance by Perfect Portal of its obligations under the Agreement:
- 11.3.1 at the written direction of the Client, delete or return personal data unless required by Privacy and Data Protection Requirements to store the personal data;
- 11.3.2 process the personal data only on the instructions of the Client unless Perfect Portal is required by Privacy and Data Protection Requirements to otherwise process that data; and
- 11.3.3 notify the Client without undue delay on becoming aware of a personal data breach.
- 11.4 The Client warrants that all personal data that it provides to Perfect Portal has been lawfully obtained and that the receipt, possession or use of that personal data in accordance with the Agreement will not place Perfect Portal in breach of any applicable Privacy and Data Protection Requirements or infringe any third party rights.
- 11.5 The Client shall ensure it obtains informed consent from data subjects in respect of the processing of any Data that is personal to them, in accordance with all applicable Privacy and Data Protection Requirements and regulations from time to time and (without limitation) the following specific obligations:
- 11.5.1 the Client shall ensure that all data subjects to which any personal data relates have given their valid consent, and, where required under the Privacy and Data Protection Requirements, their explicit consent, to the transfer of their personal data by the Client to Perfect Portal and to the processing of their personal data by Perfect Portal in respect of the Services to be supplied under the Agreement;
- 11.5.2 the Client shall ensure that it makes available to all data subjects to which any personal data relates a copy of the Privacy Policy in accordance with all applicable Privacy and Data Protection Requirements;
- 11.5.3 the Client shall maintain such documentation as is required under the Privacy and Data Protection Requirements in respect of its obligations as controller of the Data;
- 11.5.4 the Client shall ensure that a data protection officer is designated at all times for the duration of the Agreement;
- 11.5.5 the Client shall conduct impact assessments before undertaking any processing of personal data; and
- 11.5.6 the Client shall implement appropriate technical and organisational measures to ensure an appropriate level of security to protect the personal data.
- 11.6 The Client shall fully indemnify Perfect Portal in respect of any loss, penalty, fine, costs or expenses whatsoever suffered or incurred whatsoever arising directly or indirectly as a result of: (i) the Client failing to comply with its obligations under this Clause 11; or (ii) any breach by the Client of any Privacy and Data Protection Requirements.
- 11.7 The Client hereby acknowledges that:
- 11.7.1 Perfect Portal may monitor its usage of the App Services to assist Perfect Portal in improving its services. Any information collected will exclude personal data and document viewing sessions and only used internally by Perfect Portal;
- 11.7.2 Perfect Portal may disclose personal data provided by the Client to its affiliated organisations for the purposes of providing the Services only.

## 12 Confidentiality

- 12.1 Each party undertakes that it shall not at any time during the Agreement, and after termination of the Agreement, disclose to any person technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to it by the other party.
- 12.2 Each party may disclose the other party's confidential information:
- 12.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it

- discloses the other party's confidential information comply with this Clause 12; and
- 12.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

## 13 Limitation of Liability

- 13.1 Nothing in the Agreement shall limit or exclude Perfect Portal's liability for:
- 13.1.1 death or personal injury caused by its negligence;
- 13.1.2 fraud or fraudulent misrepresentation; or
- 13.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.
- 13.2 Subject to Clause 13.1, Perfect Portal shall not be liable to the Client, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Agreement for:
- 13.2.1 loss of profits;
- 13.2.2 loss of sales or business;
- 13.2.3 loss of agreements or contracts;
- 13.2.4 loss of anticipated savings;
- 13.2.5 loss of or damage to goodwill;
- 13.2.6 loss of use or corruption of software, data or information; and
- 13.2.7 any indirect or consequential loss.
- 13.3 Subject to Clause 13.1, Clause 13.2 and Clause 13.4, Perfect Portal's total liability to the Client, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Agreement shall be limited to, in respect of all claims (connected or unconnected), £5 million.
- 13.4 Subject to Clause 13.1 and Clause 13.2, Perfect Portal's total liability to the Client arising as a result of or in connection with a breach of Clause 11, shall be limited to, in respect of all claims (connected or unconnected), £1 million.
- 13.5 The terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Agreement.

## 14 Termination

- 14.1 Without affecting any other right or remedy available to it, either party may terminate the Agreement with immediate effect by giving written notice to the other party if:
- 14.1.1 the other party commits a material breach of any term of the Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so;
- 14.1.2 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- 14.1.3 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors;
- 14.1.4 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company);
- 14.1.5 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company);
- 14.1.6 the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- 14.1.7 a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the other party;
- 14.1.8 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within fourteen (14) days;
- 14.1.9 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an

- effect equivalent or similar to any of the events mentioned in Clause 14.1.2 to Clause 14.1.8 (inclusive); or
- 14.1.10 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 14.2 Without affecting any other right or remedy available to it, Perfect Portal may terminate the Agreement with immediate effect by giving written notice to the Client if:
- 14.2.1 the Client fails to pay any amount due under the Agreement on the due date for payment;
- 14.2.2 the Client refuses to accept an upgrade relating to the Services pursuant to Clause 7.1.5; or
- 14.2.3 there is a change of control of the Client.
- 14.3 Without affecting any other right or remedy available to it, Perfect Portal may suspend the supply of the Services under the Agreement if:
- 14.3.1 the Client fails to pay any amount due under the Agreement on the due date for payment;
- 14.3.2 the Client becomes subject to any of the events listed in Clause 14.1.2 to Clause 14.1.8 or Perfect Portal reasonably believes that the Client is about to become subject to any of them;
- 14.3.3 Perfect Portal determines (at its sole discretion) that it is necessary to periodically maintain or improve the Services; or
- 14.3.4 Perfect Portal (acting reasonably) determines that the Client is using the Services in a manner which constitutes a breach of the Agreement, or is likely to be found illegal.

## 15 Consequences of Termination

- 15.1 On termination or expiry of the Agreement:
- 15.1.1 the Client shall immediately cease to use the Services and shall not have any access to the Services;
- 15.1.2 the Client shall immediately pay to Perfect Portal all of Perfect Portal's outstanding unpaid invoices and interest and, in respect of the Services supplied but for which no invoice has been submitted, Perfect Portal may submit an invoice, which shall be payable immediately on receipt;
- 15.1.3 where the Agreement is terminated by Perfect Portal pursuant to Clause 14, Perfect Portal may submit an invoice in for the App Fortnightly Amount and Perfect Portal Monthly Amount in respect of remaining term of the relevant Year, which shall be payable immediately on receipt;
- 15.1.4 the Client shall return all of the Pre-existing Materials within three (3) months;
- 15.1.5 the Client shall within 30 Business Days make arrangements with Perfect Portal to extract the Data from the Perfect Portal Solution (save where the Agreement is terminated by Perfect Portal pursuant to Clause 13, in which case the Client shall have no access to the Data); and
- 15.1.6 the following clauses shall continue in force: Clause 10 (Intellectual property rights), Clause 11 (Data Protection), Clause 12 (Confidentiality), Clause 13 (Limitation of liability), Clause 23 (Conflict), Clause 27 (Governing law) and Clause 28 (Jurisdiction).
- 15.2 Termination or expiry of the Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

## 16 Force Majeure

Neither party shall in any circumstance be in breach of the Agreement nor liable for delay in performing, or failure to perform, any of its obligations under the Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control, and in such circumstance the affected party shall be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for 180 days or more, the party not affected may terminate the Agreement by giving thirty (30) days' written notice to the other party.



## 17 Assignment and Other Dealings

- 17.1 The Agreement is personal to the Client and the Client shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Agreement.
- 17.2 Perfect Portal may at any time assign, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under the Agreement provided that Perfect Portal gives prior written notice of such dealing to the Client.

## 18 Variation

No variation of the Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

## 19 Waiver

A failure or delay by a party to exercise any right or remedy provided under the Agreement by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

## 20 Rights and Remedies

The rights and remedies provided under the Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

## 21 Severance

If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause 21 shall not affect the validity and enforceability of the rest of the Agreement.

## 22 Entire Agreement

- 22.1 The Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 22.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Agreement.
- 22.3 Nothing in this Clause 22 shall limit or exclude any liability for fraud.

## 23 Conflict

If there is an inconsistency between any of the provisions of these Terms and the provisions of the Order, the provisions in these Terms shall prevail.

## 24 No Partnership or Agency

- 24.1 Nothing in the Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 24.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

## 25 Third Party Rights

No one other than a party to the Agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.

## 26 Notices

- 26.1 Any notice given to a party under or in connection with the Agreement shall be in writing (and in the case of Perfect Portal, shall be marked for the attention of Perfect Portal's Manager and in the case of the Client, shall be marked for the attention of the Client Manager) and shall be delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case).
- 26.2 Any notice shall be deemed to have been received:

- 26.2.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- 26.2.2 if sent by pre-paid first-class post or other next Business Day delivery services, at 9.00am on the second Business Day after posting or at the time recorded by the delivery service.
- 26.3 For the purposes of Clause 26.2, and calculating deemed receipt:
- 26.3.1 all references to time are to local time in the place of deemed receipt; and
- 26.3.2 if deemed receipt would occur in the place of deemed receipt on a Saturday or Sunday or a public holiday when banks are not open for business, deemed receipt is deemed to take place at 9.00 am on the day when business starts in the place of receipt.
- 26.4 This Clause 26 does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## 27 Governing Law

The Agreement, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

## 28 Jurisdiction

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