

SOFTWARE LICENCE AGREEMENT FOR PAYROLL AND HR PRODUCT RANGE

MEMORANDUM OF AGREEMENT ENTERED INTO BETWEEN:

Sage South Africa Pty Ltd

(Registration number: 2003/015693/07)

A company duly incorporated under the laws of South Africa having its main place of business at Sage Technology Park,  
102 Western Services Road, Gallo Manor, Johannesburg, 2191.  
Tel: (012) 420 7000; Fax: (012) 420 7339; Email: info.shp@sage.com  
(hereinafter referred to as "Sage")

And

<u>Kareeberg Municipality</u> (Name of Licensee)	<u>Legal nature e.g. company/partnership/firm</u>
<u>Registration number if applicable</u>	<u>Carnarvon</u>
<u>P.O. Box 10, Carnarvon</u> Postal address	<u>Main place of business (domicilium citandi et executandi)</u>
<u>053 382 3142</u> Facsimile number	<u>053 382 3012</u> Telephone number
	<u>Kareeberg@xsinet.co.za.</u> Electronic mail

(hereinafter referred to as the "Licensee")

RECITAL

WHEREAS Sage is the owner of certain software and the Licensee wishes to obtain the right to use the software for specific purposes; and

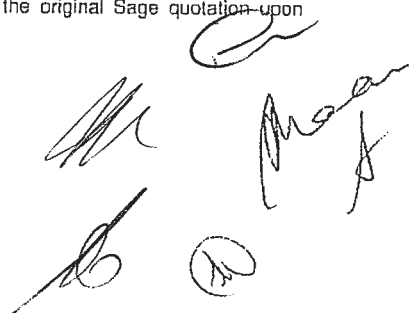
WHEREAS the Licensee has accepted the Schedule of Fees and Rates (attached hereto as Annexure A) and has agreed to the terms and conditions stipulated in the written Quotation/ Order confirmation (attached hereto as Annexure B);

NOW THEREFORE Sage agrees to licence such software to the Licensee on the following terms and conditions:

1. DEFINITIONS

Unless the contrary is clearly indicated, the following words and/or phrases used in this Agreement shall have the following meaning:

- 1.1 **Agreement** shall mean this written document together with and including the *Order Confirmation, Schedule of Fees and Rates* and all other written appendices, annexures, exhibits or amendments attached to it from time to time;
- 1.2 **Commencement date** shall mean the date of signing of this agreement or the *Order Confirmation* whichever occurs first, by the Licensee;
- 1.3 **Confidential Information** shall mean:
  - 1.3.1 any information of whatever nature, which has been or may be obtained by either of the Parties from the other, whether in writing or in electronic form or pursuant to discussions between the parties, or which can be obtained by examination, testing, visual inspections or analysis, including, without limitation, scientific business or financial data, know-how, formulae, processes, designs, sketches, photographs, plans, drawings, specifications, sample reports, models, customer lists, price lists, studies, findings, computer software, inventions or ideas;
  - 1.3.2 analyses, concepts, compilations, studies and other material prepared by or in possession or control of the recipient which contain or otherwise reflect or are generated from any such information as is specified in this definition; and
  - 1.3.3 any dispute between the parties resulting from this agreement.
- 1.4 **Copyright** shall mean all rights of reproduction whether existing now or in the future in and to the Software and Software Documentation;
- 1.5 **Designated Site** shall mean one independent computer only at the physical address or location determined in the *Order Confirmation* or networked environment as per the *Order Confirmation*;
- 1.6 **Intellectual Property Rights** shall mean all present and future rights in the Software and Software Documentation and other rights, which may in the future be based thereon, including but not limited to Copyright;
- 1.7 **Licence** shall mean a limited, non-transferable and non-exclusive right granted to the Licensee to use the Software and Software Documentation in terms of this Agreement and to make not more than two (2) machine-readable copies of the software diskettes for back-up and security purposes.
- 1.8 **Notice** shall mean a written document, delivered in accordance with the provisions of clause 20;
- 1.9 **Order Confirmation** shall mean the document detailing the Software, Licence and support services provided by Sage to the Licensee and the licence fees and rates payable in respect of the Software, Licence and support services.
- 1.10 **Parties** shall mean both Sage and the Licensee;
- 1.11 **Schedule of Fees and Rates** shall mean the document detailing Sage's prevailing licence fees and rates for support services and the implementation program for the software as extracted from the original Sage quotation upon acceptance thereof;



- 1.12 **Software** shall mean the software provided by Sage to the Licensee as specified in the *Order Confirmation* as well as all updates and corrections to the Software provided to the Licensee during the subsistence of this Agreement; and
- 1.13 **Software Documentation** shall mean the electronic user manuals containing instructions pertaining to the use of the Software and setting out the operation of the Software;

## 2. INTERPRETATION

- 2.1 The clause headings in this Agreement have been inserted for convenience only and will not be taken into account in the interpretation of this Agreement;
- 2.2 any reference in this Agreement to the singular includes the plural and *vice versa*; and
- 2.3 any reference to this Agreement to natural persons includes legal persons and references to any gender include references to the other genders and *vice versa*.

## 3. VALIDITY

If any provisions of this Agreement are found or held to be invalid or unenforceable, the validity and enforceability of all the other provisions of this Agreement will not be affected thereby.

## 4. GRANT AND NATURE OF LICENCE

- 4.1 Sage herewith grants a non-exclusive, non-transferable Licence to the Licensee to operate the Software for its intended function for the benefit of the Licensee on the Designated Site and to use the Software Documentation for the duration of this Agreement.
- 4.2 The Licensee shall not have the right to sub-licence or transfer the Software in any way, either in whole or in part, to any third party including any of the Licensee's subsidiaries.
- 4.3 The Licensee shall not copy nor permit any party to copy the Software, except to make not more than two (2) machine-readable copies of the Software for back-up and security purposes.
- 4.4 The Licensee shall not modify, de-compile, disassemble or otherwise reverse-engineer the Software, or attempt to do any of these.
- 4.5 The Licensee shall allow Sage, upon reasonable Notice, access to its premises to conduct a reasonable audit of the Licensee's compliance with the Agreement and the Licensee agrees that Sage may collect data electronically from time to time in order to verify the licensing compliance of the Software. This includes, but is not limited to, the number of employees paid by the Licensee, modules in use as well as the IP address or other address of the computer equipment on which the Software is installed. The collection of such data will assist in preventing unauthorized use of the Software and enable Sage to enforce rights conferred in terms of the Agreement. Sage undertakes that no personal data relating to Licensee employees or companies in the Software will be collected without written consent from the Licensee and shall be regulated by Schedule A in accordance with the **General Data Protection Regulation (GDPR)** (Regulation (EU) 2016/679).
- 4.6 If the hardware at the Designated Site is inoperative due to malfunction, any right granted under the Agreement for such Designated Site shall be temporarily extended to authorise the Licensee to use the Software at any other site until the Designated Site is returned to operation. Sage must be informed, in writing, of such malfunction. The Licensee undertakes to notify Sage in writing immediately when the designated site is returned to operation, at which stage the temporary extension will be uplifted.

## 5. COMMENCEMENT AND DURATION

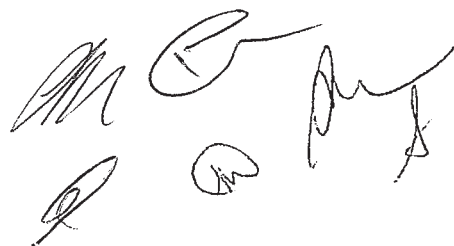
- 5.1 This Agreement shall commence on the Commencement Date and continue in force until 28 February of the year subsequent to the Commencement Date. Thereafter the Agreement will be renewed for further periods of 12 (twelve) months at a time, provided that the Licensee pays the annual licence fee before or on 28 February for each further 12 (twelve) month period of renewal.
- 5.2 In the event that the Licensee elects the monthly payment option and the monthly debit order of the Licensee is rejected without being rectified within a period of 30 days, this will be considered a material breach of this Agreement and will be dealt with in terms of clause 15 of this Agreement.
- 5.3 Save for the provisions of clauses 9.2.3 to 9.2.5 dealing with the increment of licence and other fees, the terms of this Agreement shall continue to apply during the renewal period(s) provided that Sage shall have the right to make reasonable amendments to this Agreement prior to any period of renewal.

## 6. TERMINATION

- 6.1 Either of the Parties can terminate this Agreement at any stage by giving the other Party three (3) months' Notice of its intention to do so, provided that in the event that Sage gives such notice, termination will only take effect upon expiry of the twelve month period during which notice is given.
- 6.2 In the event that the Licensee terminates this Agreement in terms of clause 6.1, Sage shall not be obliged to refund initial or annual licence fees paid prior to such termination and the Licensee shall be entitled to use the Licence for the remainder of the twelve month period ending February.
- 6.3 In the event of termination of this Agreement by either Party for whatever reason, the other Party reserves the right to exercise any rights or remedies which may have accrued as at date of termination;

## 7. ORDER CONFIRMATION

- 7.1 Sage shall provide the Licensee with the Software and, if applicable, further software required to operate the Software and additional support services detailed in the *Order Confirmation* for the duration of this Agreement;
- 7.2 Save for the right to operate the Software for its benefit, Sage shall provide the Licensee with the following further services in consideration for the payment of annual licence fees for the duration of this Agreement.
- 7.2.1 Telephonic support during normal working hours;
- 7.2.2 Periodic updates to ensure that the Software conforms to new statutory requirements and which Sage will endeavour to make available prior to the date of coming into operation of the legislation in question;
- 7.2.3 New releases of the Software with system improvements; and



- 7.2.4 Release notes on statutory changes and new system features;  
7.3 Sage shall provide the Licensee with such other services as may be agreed to by the Parties in writing from time to time for the duration of and subject to this Agreement.

#### 8. INSTALLATION, IMPLEMENTATION AND OTHER SERVICES

- 8.1 Where required, Sage may install the Software, including setting up the parameters of the program to the Licensee's specific needs, and implementation thereof as detailed in the *Schedule of Fees and Rates*.  
8.2 The Licensee shall provide the Sage consultant attending to the installation and implementation of the Software with the facilities, computer equipment, payroll details and such other information as may be required by the Sage consultant to effect such installation and implementation;  
8.3 Sage shall provide the Licensee with such further consultations, training and other services as may be agreed upon in writing by the Parties from time to time;  
8.4 Subject to the provisions of clause 11.1, operation of the Software is at the sole risk of the Licensee and the Licensee shall take all the reasonable and necessary steps usually implemented in a payroll office, or which the Licensee usually implements in its payroll office, to ensure that the operation of the Software complies with the Licensee's requirements.

#### 9. LICENCE FEES AND RATES

In consideration of the Licence being granted, the Licensee shall pay Sage the following licence fees:

- 9.1 An initial once-off licence fee in the amount determined in the *Order Confirmation* payable upon the date of signature of this Agreement by the Licensee;  
9.2 The annual licence fee, which for the first year or portion thereof shall be calculated *pro-rata* according to the number of months remaining to the February of the following year;  
9.2.1 The Licence Fee for each subsequent year shall be determined, in part, by taking into account the number of employees the Licensee pays as well as the modules purchased by the Licensee. Module purchases are not refundable. It is reiterated that the full annual licence fee, irrespective of termination of this Agreement during the particular year by the Licensee, is payable by the Licensee;  
9.2.2 In the event that Licensee elects the monthly payment option, the Licensee shall be required to approve a monthly debit order agreement for the tax year ending on the last day of February with the amount stipulated in the *Order Confirmation*. This monthly payment will replace the initial licence fee as contemplated in clause 9.1 as well as the annual licence fee in clause 9.2.1.  
9.2.3 The licence fee shall escalate annually by an amount usually not exceeding South African CPI for the preceding 12 (twelve) months, plus 2% (two percent), and subject to the provisions of clause 9.2.5 below.  
9.2.4 The determination by Sage of the escalation of the licence fee shall be with reference to the number and extent of statutory changes affecting the operation of the Software in any given year, with written notice to the Licensee should the escalation exceed the escalation referred to in clause 9.2.3.  
9.2.5 The fees and rates for support services detailed in the *Fees and Rates Schedule* are subject to annual revision by Sage. This usually occurs in January of each year.  
9.3 Sage has the right to withhold the renewal code for the Licence should the Licensee fail to pay the agreed licence fee within the time period stipulated herein, in which event the Licensee will be unable to utilise the system for the following tax year;  
9.4 The Licensee shall pay Sage for the installation of the Software and implementation thereof at the prevailing rates detailed in the *Schedule of Fees and Rates*;  
9.5 The Licensee shall pay Sage for such further consultations, training and other services as may be agreed upon by the Parties at the prevailing rates of the services detailed in the *Schedule of Fees and Rates*.

#### 10. SUNDRY OBLIGATIONS OF THE LICENSEE

- 10.1 The Licensee shall and, where applicable, at own cost and risk:  
10.1.1 acquaint itself with the contents of this Agreement;  
10.1.2 acquaint itself with the Software, its compatibility with the Licensee's computer equipment and software, and its capabilities and suitability to achieve the results required by the Licensee;  
10.1.3 keep all Software and the Software Documentation in a safe place;  
10.1.4 select only suitably trained staff to operate the Software;  
10.1.5 be solely responsible for the installation and implementation of all updates and corrections to the Software according to the instructions of Sage  
10.1.6 maintain and update machine operating software required for operating the Software and updates or corrections to the Software; and  
10.1.7 inform Sage should tax authorities amend or announce new tax regulations and the Licensee has not received an update to the Software pertaining to such tax amendments from Sage.

#### 11. LIMITATIONS OF LIABILITY

- 11.1 Save as expressly provided for in clause 11.2 Sage makes no representation and gives no warranties, whether expressed or implied, as to the suitability and operability of the Software for the Licensee's needs, its quality or functionality or its fitness for any purpose whatsoever, and Sage does not warrant that the operation of the Software will be uninterrupted or without error.  
11.2 Sage warrants that for the duration of this Agreement:  
11.2.1 the Software generally will comply with the specifications and documentation set out in the *Order Confirmation* and be capable of being used for its intended purpose;  
11.2.2 all documentation, training and additional services provided in terms of the *Order Confirmation* shall be reasonably accurate, effectively conducted in a professional manner and provide adequate support for the use of the Software.





- 11.3 In the event that the Software and/or such additional documentation and services referred to in clause 11.2 fail to meet the warranted standards, then Sage shall at its own expense and election:
- 11.3.1 repair the Software to ensure that it conforms to the *Order Confirmation* and is capable of being used as intended;
  - 11.3.2 upgrade or improve such additional services or documentation so that it conforms to the *Order Confirmation* and is capable of being used as intended; or
  - 11.3.3 replace the Software with similar software, which complies in all aspects with the intended purpose of the Software.
- 11.4 The warranties set out in clauses 11.2 and 11.3 shall not apply in the event that:
- 11.4.1 the breach of warranty is a result of a force majeure event as set out in clause 22; or
  - 11.4.2 the Software has been subject to misuse, neglect or unauthorised alteration by the Licensee; or
  - 11.4.3 the data has been accessed or amended in any manner other than access via the Sage standard software.
- 11.5 Subject to clause 11.6 Sage will in no event be liable to the Licensee for the following, arising out of any cause of whatever nature and however arising, excluding liability incurred due to gross negligence on the part of Sage its consultants, agents or representatives:
- 11.5.1 any direct or incidental, indirect, special or consequential damages or loss, including but not limited to, interrupted or complete loss of use, revenues, profits, or savings; or
  - 11.5.2 loss or damage to the Licensee's data or database; or
  - 11.5.3 claims, demands or actions against the Licensee by any third parties, or payments due or made by the Licensee to third parties; or
  - 11.5.4 loss of funds contained in, dispensed by or associated with the Software; or
  - 11.5.5 any faulty installation or implementation, delay, failure, breakdown or malfunction of the Software, interruption of service or inability to use the Software; or
  - 11.5.6 any other loss or damage of whatsoever nature which may be sustained by the Licensee.
- 11.6 The liability of Sage for all damages of whatever nature suffered by the Licensee as a direct result of faulty installation or implementation of the Software by Sage and the consequential malfunctioning of the Software as a direct result thereof, shall be limited, at Sage's option and in consultation with the Licensee, to the replacement of software within a reasonable time and free of charge, or, the refund of the annual licence fee paid for the 12 (twelve) month period during which the installation or implementation takes place, it being recorded and agreed that such liability shall be completely excluded if the Licensee itself attempts to correct or allows third parties to correct or attempt to correct the installation or implementation of the Software or in any manner interfere with the Software without the prior written consent of Sage.
- 11.7 Sage shall not be liable for any delay, malfunction, faulty implementation, failure breakdown, damage or injury suffered by the Licensee as a result of:
- 11.7.1 the Software or other software and/or computer programs and/or support services being supplied by or obtained by the Licensee from any source without the prior written consent of Sage or
  - 11.7.2 the Software or other software and/or computer programs being modified by the licensee or any third party not authorised to do so in terms of the agreement; or
  - 11.7.3 the actions or the requirements of any telecommunications authority or supplier of telecommunications services or software; or
  - 11.7.4 any data structure changes that Sage may deem to be necessary from time to time. This may affect specific Licensee data extracts or screen views.
- 11.8 In no event will Sage be liable for loss of profits or for incidental special or consequential damages arising out of or in connection with the Software or the delivery, installation, implementation, modification, servicing, execution, performance or use of the Software in combination with any other computer software, or arising out of or in connection with the provision of other support services by Sage to the Licensee.

## 12. INTELLECTUAL PROPERTY RIGHTS

- 12.1 The Licensee acknowledges that any and all of the Intellectual Property Rights used or embodied in or in connection with the Software and Software Documentation are and will remain the sole property of Sage
- 12.2 The Licensee shall not question or dispute the ownership of such rights at any time during the continuation in force of the Agreement or thereafter;
- 12.3 Upon the termination of this Agreement for whatever reason, the Licensee shall return the Software, Software Documentation and all amendments thereto to Sage within 30 (thirty) days of said termination taking effect.
- 12.4 Sage warrants that the Software does not infringe any third party patent, copyright, trademark or any other intellectual property rights.

## 13. SAGE EMPLOYEES

- 13.1 During the existence of this Agreement the Licensee shall not make any offer(s) of employment to Sage employees, nor employ Sage employees, or otherwise acquire the services of Sage employees other than in terms of this Agreement or another agreement concluded between the Licensee and Sage.
- 13.2 For the purposes of clause 13.1 an employee who resigns from the employ of Sage and immediately thereafter accepts a position of employment, whether temporary or permanent, with the Licensee shall be regarded as a Sage employee.
- 13.3 Should the Licensee obtain the services of a Sage employee in breach of clause 13.1, the Licensee shall pay to Sage upon demand an amount equal to 20% (Twenty Percent) exclusive of Value Added Tax of the total annual cost to Sage of the employee, including but not limited to the total earnings, Sage contributions and fringe benefits of the employee.

## 14. MOBILITY

- 14.1 An optional feature that the Licensee may elect to use is the Mobility functionality of the Software. This functionality requires that data be transferred to the Sage cloud based computing network to be made available for mobility applications. Due to the fact that this data includes individual's personal information, as defined by the Protection of

Personal Information Act, there is a requirement that the Licensee obtain the consent of those individuals prior to transferring the data.

- 14.2 Sage confirms that, in terms of the Confidentiality undertakings in this Agreement, that no information will be provided to third parties without the prior written consent and that this highly confidential personal information will be protected in terms of reasonable, applicable industry standards.

#### 15. BREACH

- 15.1 Should the Licensee breach any stipulation contained in this Agreement, and that breach is not due to force majeure, then;

15.1.1 Sage may terminate this Agreement, provided that the Licensee fails to remedy such breach within seven (7) calendar days after receiving a Notice to remedy such breach from Sage. Provided further that Sage confirms this termination, by way of a Notice to the Licensee, and claim all damages that Sage might have suffered as a result of that breach; or

15.1.2 Sage may claim specific performance of this Agreement from the Licensee and all damages that it might have suffered as a result of that breach;

- 15.2 Should Sage breach any stipulation contained in this Agreement, and that breach is not due to force majeure then;

15.2.1 The Licensee may terminate this Agreement; provided that Sage fails to remedy such breach within seven (7) calendar days after receiving a Notice to remedy such breach from the Licensee. Provided further that the Licensee confirms this termination, by way of Notice to Sage.

15.2.2 Any claim for damages which the Licensee may bring pursuant to breach on the part of Sage shall be subject to the provisions of clause 11.

#### 16. CONFIDENTIALITY AND NON-DISCLOSURE

- 16.1 The Parties shall hold in confidence all Confidential Information received from each other and not divulge the Confidential Information to any person, including any of its employees, save for employees directly involved with the execution of this Agreement.

16.2 The Parties shall prevent disclosure of the Confidential information, by the use of reasonable means which are at least as stringent as those used to protect the Party's own Confidential Information, except as may be required by law;

- 16.3 Within six (6) months after the termination of this Agreement, for whatever reason, the recipient of Confidential Information shall return same or at the discretion of the original owner thereof, destroy such Confidential Information, and shall not retain copies, samples or excerpts thereof;

- 16.4 It is recorded that the following information will for the purpose of this Agreement, not be considered to be Confidential Information:

16.4.1 information known to either of the Parties prior to the date that it was received from the other Party; or

16.4.2 information known to the public or generally available to the public prior to the date that it was disclosed by either of the Parties to the other; or

16.4.3 information which becomes known to the public or becomes generally available to the public subsequent to the date that it was disclosed by either of the Parties to the other, through no act or failure to act on the part of the recipient of such information.

- 16.4.4 Information which either of the Parties, in writing, authorises the other to disclose.

#### 17. RELATIONSHIP

This Agreement does not constitute either of the Parties an agent or legal representative of the other for any purposes whatsoever and neither of the Parties shall be entitled to act on behalf of, or to represent the other unless duly authorised thereto in writing.

#### 18. DISPUTE RESOLUTION

- 18.1 If the Parties are unable to resolve any dispute resulting from this Agreement by means of joint cooperation or discussion between the individuals directly involved with the execution of this Agreement, within one week after a dispute arises or such extended time period as the Parties may in writing allow, then such a dispute shall be submitted to the most senior executives of the Parties who shall endeavour to resolve this dispute within five (5) calendar days after it having been referred to them.

- 18.2 Should the dispute not be resolved in the aforesaid manner, then it shall be resolved by way of arbitration, in accordance with the provisions contained in this Agreement.

#### 19. ARBITRATION

- 19.1 A dispute between the Parties relating to any matter arising out of this Agreement or the interpretation thereof shall be referred to arbitration, by either of the Parties, by way of a Notice to the other Party, in which Notice particulars of the dispute are set out;

- 19.2 Such arbitration proceeding shall be held in Johannesburg and shall be held in a summary manner, which shall mean that it shall not be necessary to observe or carry out;

19.2.1 the usual formalities of procedure (e.g there shall not be any formal pleadings or discovery) however, the arbitrator shall be entitled to direct that such formalities may take place in the event that either Party will be materially disadvantaged through the disregarding of such rules;

19.2.2 the strict rules of evidence.

- 19.3 The arbitration proceedings shall proceed at the earliest convenience and with a view to being completed within 14 (fourteen) calendar days after being demanded;

- 19.4 The arbitrator for such arbitration proceedings shall be a practicing advocate or attorney, admitted as such in accordance with the legislation of the law governing this Agreement, with at least 10 (ten) years' experience, agreed upon by the Parties and, failing agreement, nominated by the chairperson for the time being of the Law Society of South Africa;



- 19.5 The decision of the Arbitrator shall be final and binding on the Parties, who shall summarily carry out that decision and either of the Parties shall be entitled to have the decision made an order of any court with competent jurisdiction.
- 19.6 The "arbitration" clause in this Agreement shall be severable from the rest of this Agreement and therefore shall remain effective between the Parties after this Agreement has been terminated.
- 19.7 No clause in this Agreement which refers to arbitration shall mean or be deemed to mean or interpreted to mean that either of the Parties shall be precluded from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.

## 20. DOMICILIUM

- 20.1 The Parties elect as their respective *domicilium citandi et executandi* the physical addresses indicated on the front page of this Agreement.
- 20.2 Either of the Parties may change its *domicilium citandi et executandi* to another address within the same country by way of a notice to the other Party to this Agreement, provided that such a Notice is received by the addressee, at least seven (7) calendar days prior to such a change taking effect.

## 21. NOTICES

- 21.1 The Parties elect the physical, postal, email and telefacsimile addresses on the front page of this Agreement at which all Notices and other communications may be delivered for the purpose of this Agreement.
- 21.2 Any Notice or communication required or permitted to be given in terms of this Agreement shall only be valid and effective if it is in writing;
- 21.3 Any Notice addressed to either of the Parties and contained in a correctly addressed envelope and sent by registered post to it at its chosen address or delivered by hand at its chosen address to a responsible person on any day of the week between 09h00 and 16h00 excluding Saturdays, Sundays and South African public holidays, shall be deemed to have been received, unless the contrary is proved, if sent by registered post on the 5<sup>th</sup> (fifth) calendar day after posting and in the case of hand delivery on the day of delivery.
- 21.4 Any Notice sent by email or telefacsimile to either of the parties at its email address or telefacsimile number shall be deemed unless the contrary is proved, to have been received:
- 21.4.1 If it is transmitted on any day of the week between 09h00 and 16h00 excluding Saturdays and Sundays and South African public holidays within two (2) hours of transmission.
- 21.4.2 If it is transmitted outside of these times within two (2) hours of the commencement of any day of the week between 09h00 and 12h00 excluding Saturdays and Sundays and South African public holidays after it has been transmitted.

## 22. FORCE MAJEURE

- 22.1 Neither of the Parties shall be liable for a failure to perform any of its obligations insofar as it proves;
- 21.1.1 That the failure was due to an impediment beyond its control;
- 21.1.2 That it could not reasonably be expected to have taken the impediment and its effects upon the party's ability to perform into account at the time of the conclusion of this Agreement; and
- 21.1.3 That it could not reasonably have avoided or overcome the impediment or at least its effects.
- 22.2 An impediment as aforesaid may result from events such as the following, this enumeration not being exhaustive:
- 22.2.1 war, whether declared or not, civil war, civil violence riots and revolutions, acts of sabotage;
- 22.2.2 natural disasters such as violent storms, cyclones, earthquakes, tidal waves, floods, destruction by lightning
- 22.2.3 explosions, fires, destruction of machines, factories and any kind of installation;
- 22.2.4 boycotts, strikes and lock-outs of all kinds, go-slows, occupation of factories and premises and work stoppages;
- 22.2.5 acts of authority, whether lawful or unlawful, apart from acts from which the party seeking relief has assumed the risk by virtue of any other provision of this agreement.
- 22.3 For the purposes of this clause, "impediment" does not include lack of authorisations, licences, permits, or approvals necessary for the performance of this Agreement and to be issued by the appropriate public authority if applicable.
- 22.4 Relief from liability for non-performance by reason of the provisions of this clause shall commence on the date upon which the Party seeking relief gives Notice of the impediment relied upon and shall terminate upon the date upon which such impediment ceases to exist, provided that if such impediment continues for a period of more than 60 (sixty) days either of the Parties shall be entitled to terminate this Agreement.

## 23. ENTIRE AGREEMENT AND VARIATIONS

- 23.1 This Agreement constitutes the whole agreement between the Parties and supersedes all prior verbal or written agreements or understandings or representations by or between the Parties regarding the subject matter of this Agreement and the Parties will not be entitled to rely in any dispute regarding this Agreement or any terms conditions or representations not expressly contained in this Agreement.
- 23.2 No variation of or addition to this Agreement will be of any force or effect unless reduced to in writing and signed by or on behalf of the Parties.
- 23.3 Neither Party to this Agreement has given any warranty or made any representation to the other Party other than any warranty or representation, which may be expressly set out in this Agreement.

## 24. ANTI-BRIBERY AND CORRUPTION

- 24.1 The Licensee acknowledges that integrity, honesty, and compliance with all applicable laws are core business values and practices that Sage adopts.
- 24.2 The Licensee warrants that it has not and will not participate, directly, indirectly, or at all, in any unlawful conduct as between itself and any party that may exert an influence over any end-user that may be construed as bribery and / or corruption as envisaged in the Prevention and Combating of Corrupt Activities Act, Act 12 of 2004, or any other applicable law or legislation.

- 24.3 The Licensee accordingly indemnifies and holds Sage harmless against any such claim of whatsoever nature in terms of which it is alleged that the Licensee has acted unlawfully and the Licensee agrees to defend any such claim made against Sage on Sage's behalf and further agrees to pay any legal costs associated therewith.
- 24.4 The Licensee acknowledges that if on reasonable suspicion Sage believes that the Licensee is participating in such unlawful conduct, Sage will be obliged in law to report such conduct to a police official.
- 24.5 The Licensee also acknowledges that the Prevention and Combating of Corrupt Activities Act contains extraterritorial provisions and that even if the alleged illegal conduct occurred outside of the Republic of South Africa, a court of the Republic of South Africa will, in certain circumstances, have jurisdiction in respect of such alleged illegal conduct.
- 24.6 Sage reserves the right to summarily cancel this Agreement on written Notice if on reasonable suspicion Sage believes that the Licensee is participating in such unlawful conduct

## 25. ASSIGNMENT, CESSION AND DELEGATION

Neither of the Parties shall be entitled to assign, cede, delegate or transfer any rights obligations, share or interest acquired in terms of this Agreement in whole or in part to any other party or person without the prior written consent of the other, which consent shall not unreasonably be withheld or delayed.

## 26. RELAXATION, WAIVER AND SEVERABILITY

- 26.1 No indulgence leniency or extension of a right, which either of the Parties may have in terms of this Agreement and which either Party ("the grantor") may grant or show to the other Party, shall in any way prejudice the grantor or preclude the grantor from exercising any of the rights that it has derived from this Agreement or be construed as a waiver by the grantor of that right.
- 26.2 No waiver on the part of either Party to this Agreement of any rights arising from a breach of any provisions of this Agreement will constitute a waiver of rights in respect of any subsequent breach of the same or any other provision.
- 26.3 In the event that any of the terms of this Agreement are found to be invalid, unlawful and/or unenforceable such terms will be severable from the remaining terms, which will continue to be valid and enforceable.

## 27. DRAFTING COSTS

Each of the Parties shall bear its own cost incurred as a result of the negotiation, drafting and finalisation of this Agreement, which shall include but not be limited to all legal fees.

## 28. GOVERNING LAW

The validity and interpretation of this Agreement will be governed by the Laws of the Republic of South Africa.

## 29. AUTHORISATION WARRANTY

The persons signing this Agreement on behalf of the parties hereto each warrant that he/she has the authority to do so.

SIGNED at Carnarvon on this 1st day of March 2018 in the presence of the undersigned witnesses

AS WITNESSES

1. [Signature] 2. [Signature]

[Signature]  
Signature of or on behalf of the Licensee

SIGNED at Pretoria on this 1<sup>st</sup> day of March 2018 in the presence of the undersigned witnesses

AS WITNESSES

1. [Signature] 2. [Signature]

[Signature]  
Signature of or on behalf of Sage



## Schedule A

### Data Protection Agreement

#### Definitions

"Data Protection Laws" means all applicable EU laws and regulations governing the use or processing of Personal Data, including (where applicable) the European Union Directive 95/46/EC (until and including 24 May 2018), the GDPR (from and including 25 May 2018) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time.

"Customer Data" shall mean the data, information or material provided, inputted or submitted by you or on your behalf into the Services, which may include data relating to your customers and/or employees.

"Customer Personal Data" has the meaning set out in clause 1.

"GDPR" means EU General Data Protection Regulation 2016/679.

"Personal Data" means any information relating to an identified or identifiable natural person ("Data Subject"); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

"Data Controller" means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data; where the purposes and means of such Processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law.

"Data Processor" a natural or legal person, public authority, agency or other body which Processes Personal Data on behalf of the Data Controller.

"Processing" means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction and "Process", "Processed" and "Processes" shall be construed accordingly.

"Supervisory Authority" means an independent public authority which is established under applicable Member State law and which concerns itself with the Processing of Personal Data.

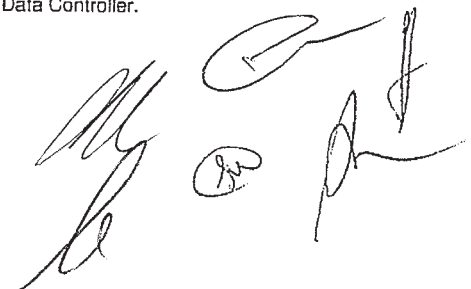
NB: The word "Sage", "Supplier", "End user", "Customer", "Us", "We" and "You" shall be construed in accordance with their defined usage in the main Agreement.

#### Sage as Data Processor

1. For the purposes of this Agreement, the parties agree that you are the Data Controller in respect of Personal Data contained within Customer Data ("Customer Personal Data") and as Data Controller, you have sole responsibility for its legality, reliability, integrity, accuracy and quality.
2. You warrant and represent that:
  - 2.1. you will comply with and will ensure that your instructions for the Processing of Customer Personal Data will comply the Data Protection Laws;
  - 2.2. you are authorised pursuant to the Data Protection Laws to disclose any Customer Personal Data which you disclose or otherwise provide to us regarding persons other than yourself;
  - 2.3. you will where necessary, and in accordance with the Data Protection Laws, obtain all necessary consents and rights and provide all necessary information and notices to Data Subjects in order for:
    - 2.3.1. you to disclose the Customer Personal Data to us;
    - 2.3.2. us to Process the Customer Personal Data for the purposes set out in this Agreement; and
    - 2.3.3. us to disclose the Customer Personal Data to: (a) our agents, service providers and other companies within the Sage group of companies; (b) law enforcement agencies; (c) any other person in order to meet any legal obligations on us, including statutory or regulatory reporting; and (d) any other person who has a legal right to require disclosure of the information, including where the recipients of the Customer Personal Data are outside the European Economic Area.
3. To the extent that Sage Processes any Customer Personal Data, the terms of Exhibit A shall apply and the parties agree to comply with such terms.

#### Sage as Data Controller

4. Where, and to the extent we Process your Personal Data as a Data Controller in accordance with our Privacy Notice [www.sage.com], we shall comply with all Data Protection Laws applicable to us as Data Controller.





#### *Analytics*

5. You agree that we may record, retain and use Customer Data generated and stored during your use of the Service (including Customer Personal Data, which we shall Process as Data Controller as set out in our Privacy Notice [[www.sage.com](http://www.sage.com)] , on the basis of our legitimate business interests), in order to:
- 5.1. deliver advertising, marketing (including in-product messaging) or information to you which may be useful to you, based on your use of Services;
  - 5.2. carry out research and development to improve our, and our Affiliates', services, products and applications;
  - 5.3. develop and provide new and existing functionality and services (including statistical analysis, benchmarking and forecasting services) to you and other Sage customers;
  - 5.4. provide you with location based services (for example location relevant content) where we collect geo-location data to provide a relevant experience,
- provided that Sage shall only record, retain and use the Customer Data and/or Process Customer Personal Data on a pseudonymised basis, displayed at aggregated levels, which will not be linked back to you or to any living Individual. If at any time you do not want us to use Customer Data in the manner described in this clause 5, please contact us at the email address set out in the Privacy Notice [[www.sage.com](http://www.sage.com)].

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom.

**Exhibit A**  
**Data Processing Addendum**

**1. Interpretation**

- 1.1. Where there is any inconsistency between the terms of this Exhibit A and any other terms of this Agreement, the terms of this Exhibit A shall take precedence.

**2. Processing of Customer Data**

- 2.1. During the term of this agreement we warrant and represent that we:
- 2.1.1. shall comply with the Data Protection Laws applicable to us whilst such Customer Data is in our control;
  - 2.1.2. when acting in the capacity of a Processor, shall only Process the Customer Data:
    - 2.1.2.1. as is necessary for the provision of the Services under this Agreement and the performance of our obligations under this Agreement; or
    - 2.1.2.2. otherwise on your documented instructions.
- 2.2. We agree to comply with the following provisions with respect to any Personal Data Processed for you in connection with the provision of the Service under this Agreement.

**3. Obligations of Sage**

- 3.1. Sage shall:
- 3.1.1. taking into account the nature of the Processing, assist Customer by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of Customer's obligation to respond to requests from individuals for exercising Data Subjects' rights; and
  - 3.1.2. taking into account the nature of the Processing, and the information available to it, provide reasonable assistance to Customer in ensuring compliance with its obligations relating to:
    - 3.1.2.1. notifications to Supervisory Authorities;
    - 3.1.2.2. prior consultations with Supervisory Authorities;
    - 3.1.2.3. communication of any breach to Data Subjects; and
    - 3.1.2.4. privacy impact assessments.

**4. Personnel**

- 4.1. Sage shall:
- 4.1.1. take reasonable steps to ensure the reliability of any personnel who may have access to the Customer Data;
  - 4.1.2. ensure that access to the Customer Data is strictly limited to those individuals who need to know and/or access the Customer Data for the purposes of this Agreement; and
  - 4.1.3. ensure that persons authorised to Process the Customer Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- 4.2. If so required by Data Protection Laws, Sage shall appoint a data protection officer and make details of the same publicly available.

**5. Security and Audit**

- 5.1. Sage shall implement and maintain appropriate technical and organisational security measures appropriate to the risks presented by the relevant Processing activity to protect the Customer Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage or disclosure. Such measures include, without limitation, the security measures set out in Annex 1.
- 5.2. Subject to any existing obligations of confidentiality owed to other parties, we shall make available to you all information reasonably necessary to demonstrate compliance with the obligations set out in this Exhibit A, which may include a summary of any available third party security audit report, or shall, at your sole cost and expense (including, for the avoidance of doubt any expenses reasonably incurred by us), allow for and contribute to independent audits, including inspections, conducted by a suitably-qualified third party auditor mandated by you and approved by us.

**6. Data Breach**

- 6.1. Sage shall notify you if we become aware of a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Personal Data arising from any act or omission of Sage or its sub-processors.

**7. Transfer of Personal Data outside the EEA**

The image shows four handwritten signatures in black ink. The signatures are stylized and appear to be of different individuals. They are located in the bottom right corner of the page, below the main text of the addendum.

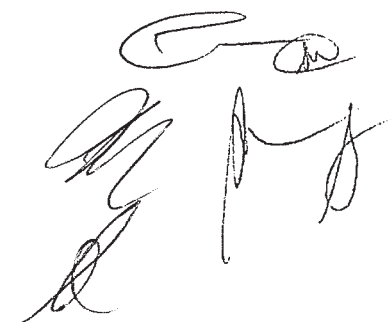
- 7.1. You expressly agree that we may transfer Customer Data within the Sage group of companies on the terms of Sage's Master Data Processing and Transfer Agreements, which incorporate the European Commission's standard contractual clauses.
- 7.2. You acknowledge that the provision of the Service may require the Processing of Personal Data by sub-processors in countries outside the EEA. We shall not transfer Personal Data outside the EEA to a sub-processor where such transfer is not subject to: (a) an adequacy decision (in accordance with Article 45 of the GDPR); or (b) appropriate safeguards (in accordance with Article 46 of the GDPR); or (c) binding corporate rules (in accordance with Article 47 of the GDPR), without your prior written consent.

**8. Return and deletion**

- 8.1. At your option, Sage shall delete or return all Customer Data to you at the end of the provision of the Services and delete all existing copies of Customer Data unless we are under a legal obligation to require storage of that data or we have another legitimate business reason for doing so.

**9. Use of Sub-Processors**

- 9.1. Customer agrees that Sage has general authority to engage third parties, partners, agents or service providers, including its Affiliates, to Process Personal Data on Customer's behalf in order to provide the applications, products, services and information Customer has requested or which Sage believes is of interest to Customer ("Approved Sub-Processors"). Sage shall not engage a sub-processor to carry out specific Processing activities which fall outside the general authority granted above without Customer's prior specific written authorisation and, where such other sub-processor is so engaged, Sage shall ensure that the same obligations set out in this Addendum shall be imposed on that sub-processor.
- 9.2. Sage shall be liable for the acts and omissions of its Approved Sub-Processors to the same extent Sage would be liable if performing the services of each Approved Sub-Processor directly under the terms of this Exhibit A.

Handwritten signatures and initials in black ink, located at the bottom right of the page. There are three distinct signatures and several initials.

**Annex 1  
Security Measures**

Category	Measure
Physical Access Control	<i>All of Sage's data processing equipment is hosted in the data centres. Access to these data centres are restricted by well-defined processes and ID Readers. They are also monitored on a 24/7 basis by security staff and surveillance cameras.</i>
Logical access prevention	<i>Sage's data processing systems are accessed by a limited number of authorised users with appropriate access rights. Dual factor authentication is implemented for each role. Such access to transaction data is restricted to a few users from the Operations (Live Services) Team. Within the Live services team different roles are created based on the job requirements. Also, the activity of each user is monitored through monitoring solutions.</i>
Data access control	<i>Only a limited set of users from Sage's Live Services technical team have access to the data processing systems which contain transaction data. Data access privileges are defined by the job role of the user; accordingly, only authorised users with appropriate privileges have the access to transaction data. No other user has any kind of access to this data. Sage has also implemented a well-defined approval process to control access to data within its systems. Sage has also implemented monitoring solutions to identify any attempts or actual unauthorised access to its systems and data.</i>
Data transfer control	<i>Sage's processes and systems ensure that all Personal Data is encrypted whilst in transit or in storage. Sage has implemented logging mechanisms to track data flows. Sage users have restricted access to transaction data.</i>
Entry control	<i>Sage has implemented logging and monitoring which enable tracking of changes and any addition/modification/deletion of data and by whom. Additionally, Sage has also implemented role based access mechanisms along with dual factor authentication.</i>
Instruction control	<i>Sage has defined and implemented standard process and policies which require special approval the concerned parties within its business, including: operational, legal and technical teams.  Pre-identified individuals from Sage's Live Services team are only involved in the actual processing of transaction data. Pre-defined processes are in place to ensure that the confidentiality and the integrity of such data is maintained.</i>
Availability control	<i>Sage has implemented well defined disaster recovery plans which are tested on a regular basis.  Sage has implemented two data centres, which operate in a fail-over mode.  Data is replicated between each data centre. Backup procedures and schedules have been defined and implemented.</i>
Separation control	<i>Data is separated both by logical and physical access controls. Network segmentations are in place to ensure that data is stored in the most restrictive zone of the network. Access to the data processing systems and the data itself is restricted by role based privileges and dual factor authentication. All access to the data systems and the data is logged and monitored. The production environment is completely segregated from the test environment.</i>

Handwritten signature and initials, including a circled 'AW' at the top right.