

ILLUMINIS INSIGHT SOFTWARE LIMITED

TERMS AND CONDITIONS

These are the terms and conditions on which Illuminis Insight Software Limited (Illuminis) is willing to licence its customers to use its software programs and/or access its services.

It is the responsibility of Customer (as defined below) to consider carefully these terms and conditions. On acceptance of the Quotation (as defined below) or by making use of the Licensed Programs and/or the Program Documentation (as defined below), Customer confirms it understands and agrees to be bound by these terms and conditions.

1. INTERPRETATION

1.1 In these terms and conditions and the Quotation, the following definitions and rules of interpretation apply:.

"Authorised User" means a person to whom Customer gives lawful access to the Licensed Programs.

"Authorised User Access Fee" means the amount described as such in the Quotation and means the fee payable by Customer for each Authorised User (in excess of two) in accordance with the terms of clause 4.2.2.

"Business Day" means a day (other than a Saturday, Sunday or public holiday) in England when banks in London are open for business.

"Conditions" means these terms and conditions as amended from time to time by Illuminis.

"Configuration" means setting up the Licensed Programs to collect the appropriate data from the Data Sources and enable delivery of the Customer Reports listed in the Quotation together with all such other Reports as may be suitable to meet Customer requirements from time to time. Reference to "Configure" shall be interpreted accordingly.

"Confidential Information" means all information which is proprietary or confidential and is either expressly marked or identified as such or which is manifestly of a confidential nature or which is confirmed in writing to be confidential within 7 days of its disclosure including (but not limited to) all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and any other confidential information concerning either party's business, its products or services.

"Contract" means the contract between Illuminis and Customer for the licensing of the Licensed Programs and delivery of the Program Documentation and Support Services in accordance with the Quotation and these Conditions.

"Customer"	means the person, firm or company who takes a licence of the Licensed Programs from Illuminis and where applicable, references to "Customer" shall include its Authorised Users.
"Customer Data"	means any and all data inputted by Customer, Authorised Users or Customer's employees or third parties either directly into the Licensed Programs or into software from which the Licensed Programs extract data.
"Customer Reports"	means the reports forming part of the Report Suite which are configured to the Data Sources and the requirements of Customer as part of Installation and/or the Support Services.
"Data Protection Legislation"	unless and until the GDPR is no longer directly applicable in the UK, (i) the General Data Protection Regulation ((EU) 2016/679) ("GDPR") and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.
"Data Sources"	means the software programs operated by Customer more particularly described in the Quotation.
"Effective Date"	means the date upon which a binding contract is entered into between Illuminis and Customer in accordance with clause 2.4 hereof.
"Equipment"	means the computer hardware using the Microsoft Windows operating system and associated peripherals of Customer or such alternative equipment as the parties may agree from time to time.
"Fee"	means the Installation Fee and the Monthly Access Fee as detailed in the Quotation or as otherwise agreed between Illuminis and Customer in writing from time to time.
"Initial Term"	means the period of 12 months commencing on the Effective Date.
"Installation"	means the set up and Configuration of the Licensed Programs on the Equipment and set up of the Customer Reports. References to "Install" shall be interpreted accordingly.
"Installation Date"	means the date on which Installation commences.
"Installation Fee"	means the fee payable for Installation as detailed in the Quotation or as otherwise agreed between Illuminis and Customer in writing from time to time.
"Intellectual Property Rights"	means all patents, rights to inventions, copyright and related rights, trade marks and services marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off and unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the

confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (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.

- “Licence”** means the licence granted by Illuminis to Customer as more particularly described in these Conditions.
- “Licensed Program Materials”** means the Licensed Programs and the Program Documentation.
- “Licensed Programs”** means the software program(s) of Illuminis marketed under the brand name “Octelas” as more particularly referred to in the Program Documentation and the Specification.
- “Location”** means Customer’s address(es) where the Equipment is located or, as appropriate, such temporary or replacement location(s) as is agreed between the parties from time to time.
- “Minimum Access Fee”** means the amount quoted in the Quotation and described as such and forming part of the Monthly Access Fee.
- “Monthly Access Fee”** means the amount described as such in the Quotation and means the monthly fee (to include the Minimum Access Fee and the Authorised User Access Fee, where applicable) payable for access to the Licensed Program Materials; the Regular Updates and the Support Services during the Term as more particularly described in Clause 4.2.
- “Payment Date”** means the same day in each month of the Term as equates to the Installation Date and being the date on which an instalment of Monthly Access Fee becomes due and payable Save That if the Installation Date occurs on 29th February or the 31st day of a month then the Payment Date shall be the last day of each successive month (so that, by way of example, if the Installation Date falls on 29th February, the first Payment Date will be 31st March by way of payment for the month commencing on 31st March and ending on 30th April and if the Installation Date falls on 31st May, the first Payment Date will be 30th June by way of payment for the month commencing on 30th June and ending on 31st July; and so on as applicable).
- “Program Documentation”** means the user instructions; technical literature; on-line help; and other documentation and all other related materials in eye-readable form supplied to Customer by Illuminis for aiding the use by Customer of the Licensed Programs.

"Quotation"	means the written quotation supplied by Illuminis to Customer and incorporating any amendments to the same which may be agreed in writing between the parties (for the express purpose of amending the Quotation) before or after the date on which Customer shall confirm acceptance of the same to Illuminis in writing.
"Regular Updates"	means the routine data extraction from the Data Sources undertaken by the Licensed Programs as more particularly described in the Specification as the same may be expanded and/or updated from time to time by agreement of the parties.
"Renewal Term"	shall have the meaning referred to in clauses 8.2 and 8.3.
"Report Suite"	means the suite of standard reports (in tabular and/or dashboard format) developed by Illuminis and forming part of the Licensed Programs and "Reports" shall be interpreted accordingly.
"Specification"	means the specification of the Licensed Programs set out in the Schedule to these Conditions.
"Support Services"	means the services more particularly described in clause 10 or as otherwise agreed between Illuminis and Customer in writing from time to time.
"Term"	means the term of the Contract.
"VAT"	means value added tax chargeable under English law for the time being and any similar additional tax.
"Website"	means www.Illuminis.co.uk

- 1.2 Clause and paragraph headings shall not affect the interpretation of these Conditions.
- 1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.8 A reference to writing or written includes e-mail.

1.9 References to clauses are to the clauses of these Conditions.

2. APPLICATION OF CONDITIONS

2.1 These Conditions together with the Quotation shall:

2.1.1 constitute the Contract; and

2.1.2 prevail over any inconsistent terms or conditions contained or referred to in Customer's purchase order or implied by law, trade custom, practice or course of dealing.

2.2 Save as referred to in Clause 18, no addition to, variation of, exclusion or attempted exclusion of any term of the Contract shall be binding on Illuminis unless in writing and signed by a duly authorised representative of Illuminis.

2.3 The Quotation constitutes an offer by Illuminis to grant a licence of the Licensed Programs to Customer subject to the Conditions and is valid for a period of sixty (60) days from the date of issue.

2.4 A binding Contract shall arise between the parties if Customer notifies Illuminis in writing that it wishes to accept the same within the period of validity of the Quotation.

2.5 If there is any inconsistency between any of the provisions of these Conditions and the Quotation, the provisions of the Quotation shall prevail in preference to these Conditions.

3. GRANT OF LICENCE

3.1 In consideration of Customer agreeing to abide by the terms of the Contract (including payment of the Fee), Illuminis grants to Customer for the Term, a non-exclusive, non-transferable right for Customer and its Authorised Users to use the Licensed Programs (without the right to grant sublicenses) solely for Customer's internal business operations and to receive the benefit of the Regular Updates; the Support Services and the Program Documentation. To avoid doubt, Customer shall have no rights in or to any of the foregoing other than strictly in accordance with the Contract. Upon termination of the Contract, the Licence will automatically terminate.

3.2 Subject to paragraph 3.1 and the Conditions, Illuminis agrees to:

3.2.1 deliver the Licensed Programs to Customer by Installing them on the Equipment;

3.2.2 Configure the Licensed Programs and set up Regular Updates and Customer Reports to Customer's reasonable requirements as specified in the Quotation;

3.2.3 provide the Support Services;

3.2.4 provide access to the Program Documentation.

3.3 The Licensed Programs rely on an active and error-free interface with the Data Sources. It is a condition of the Contract that the Data Sources are fully functioning at all times. If the Data Sources are upgraded or modified in anyway this may mean that the Licensed Programs are unable to function in accordance with the Specification and may require reconfiguration in order to ensure compatibility with the upgraded or modified version(s) of the Data Sources. The cost of providing such

reconfiguration services are outside of the scope of the Contract and will be charged by Illuminis to Customer at Illuminis' hourly rate applicable from time to time.

- 3.4 Illuminis shall use all reasonable endeavours to deliver the Licensed Programs to Customer at the Location within the time period agreed with Customer. Installation shall be carried out by Illuminis or its nominated representatives, agents or subcontractors. Time shall not be of the essence in this regard.
- 3.5 The Licensed Programs shall consist of 1 copy of the object code in machine-readable form only. The Licensed Programs shall be deemed accepted by Customer as soon as Illuminis has successfully loaded all the Licensed Programs onto the Equipment and demonstrated to Customer that they are so loaded.
- 3.6 To avoid doubt, Customer shall be responsible for ensuring that the Equipment and the Data Sources are fully operational at the Location and ready for receipt of the Licensed Programs by the Effective Date. If Illuminis is delayed from performing its obligations under this clause 3 by reason of any failure by Customer to ensure the same then Customer will indemnify Illuminis against all reasonable costs charges and losses attributable to such delay.
- 3.7 Customer's use of the Licensed Program Materials is restricted to use on and in conjunction with the Equipment save that Customer may with the prior written consent of Illuminis (such consent not to be unreasonably withheld or delayed) use the Licensed Program Materials on and in conjunction with any suitable replacement equipment (to be specified by type; location and ownership) if the use of the Licensed Program Materials on and in conjunction with the Equipment is permanently discontinued. Upon such consent being given the replacement equipment shall become the Equipment for the purposes of the Licence. Customer shall promptly notify Illuminis of any such temporary or replacement use and the commencement and any cessation of the Equipment together with full details of the temporary or replacement equipment and their locations. The use of the Licensed Program Materials on and in conjunction with such temporary or replacement equipment shall be at the sole risk and responsibility of Customer. Without prejudice to the generality of the foregoing Illuminis shall not (unless otherwise agreed in writing) have any liability hereunder in connection with such use.
- 3.8 This Licence shall not be deemed to extend to any programs or materials of Illuminis other than the Licensed Program Materials save as specifically agreed in writing by Illuminis Provided That from time to time, Illuminis may automatically update or change the Licensed Program Materials to improve performance, enhance functionality, encompass changes to the operating system, platform support or hardware specification or to address security issues or make new releases of the Licensed Programs available to Customer. The Conditions shall apply to the Licensed Program Materials
- 3.9 Customer hereby acknowledges that it is licensed to use the Licensed Program Materials only in accordance with the express terms of the Contract and not further or otherwise.
- 3.10 Customer warrants to Illuminis that it has all necessary consents, licenses and permissions to own (or licence) and operate the Data Sources and that the use of the Licensed Programs in conjunction with the Data Sources as envisaged by the Contract will not infringe any such consents, licenses or permissions.

4. PAYMENT

- 4.1 The Installation Fee shall be paid by Customer in accordance with the payment terms set out in the Quotation or (if no such terms are therein specified) within 30 days of the Installation Date.
- 4.2 Customer shall pay the Monthly Access Fee to Illuminis monthly in advance on each Payment Date by bank standing order to the intent that:
- 4.2.1 the Minimum Access Fee is payable in respect of each month of the Term Provided That no such sum shall be payable for the month commencing on the Installation Date; and
 - 4.2.2 the Authorised User Access Fee is payable for each applicable Authorised User in each month of the Term Provided That:
 - 4.2.2.1 no such sum shall be payable until the sixth month after the month of Installation; and
 - 4.2.2.2 the total Monthly Access Fee shall be reviewed in June and December in each year of the Term to establish the total number of Authorised Users (in excess of two) which may have been added or removed by Customer in the previous period of six months. Once the review is complete and the total Authorised User Access Fees payable by or owing to Customer has been determined, any required adjustment shall be made by the parties by way of increase or decrease (as the case may be) in future payments of Monthly Access Fee.
- 4.3 For the convenience of the parties, Illuminis shall issue an invoice on the 1st day of each month in respect of the Monthly Access Fee but to avoid doubt, the obligation set out in clause 4.2 applies regardless of the date of issue of any such invoice.
- 4.4 All amounts due under the Contract shall be paid by Customer to Illuminis in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law). Illuminis may, without prejudice to any other rights it may have, set off any liability of Customer to Illuminis against any liability of Illuminis to Customer.
- 4.5 Customer is obliged to pay the Monthly Access Fee during the Initial Term and any Renewal Term. Without prejudice to the remaining terms of the Licence, if this Licence is brought to an end in accordance with Clause 12 before expiry of the Initial Term or a Renewal Term then (unless termination shall have been effected by notice served by Customer under Clause 12.4) Customer shall on demand pay to Illuminis the balance of the Monthly Access Fee due to Illuminis for the remainder (as the case may be) of the Initial Term or Renewal Term.
- 4.6 All Fees and any additional charges payable under the Contract are exclusive of Value Added Tax which shall be paid by Customer at the rate and in the manner for the time being prescribed by law.
- 4.7 Illuminis may increase the Monthly Access Fee on each anniversary of the Installation Date by such reasonable sum as shall fairly reflect the increased cost (if any) to Illuminis of providing the Support Services since the date of the last review. Any such increase shall be notified to Customer in writing before the relevant anniversary date.

4.8 Time for payment shall be of the essence of the Contract.

5. ILLUMINIS' OBLIGATIONS

- 5.1 Subject to all other provisions of this clause 5 Illuminis undertakes that Installation shall be completed and/or the Support Services performed in a timely manner and with reasonable skill and care and in accordance with all applicable laws and regulations in force from time to time.
- 5.2 Subject to clause 5.3, Illuminis warrants that the Licensed Programs will during the Term provide the facilities and functions set out in the Specification when properly used on the Equipment.
- 5.3 The warranty in clause 5.2 shall be subject to Customer complying with its obligations hereunder and upon the assumption that no alterations to the Licensed Programs have been made by any person other than Illuminis. No warranty is given for use of the Licensed Programs other than with the Data Sources.
- 5.4 Any malfunction, defect or error in the Licensed Programs must be reported to Illuminis within 48 hours of the malfunction, defect or error occurring. When notifying a malfunction, defect or error Customer shall provide Illuminis with as much evidence as possible of such malfunction, defect or error including where appropriate screen dumps and other documented examples.
- 5.5 Illuminis shall have no liability or obligations under the said warranty other than to remedy the malfunction, defect or error in accordance with clause 5.1.
- 5.6 Customer acknowledges that the Licensed Programs have not been prepared to meet Customer's individual requirements and that it is therefore the responsibility of Customer to ensure that the facilities and functions described in the Quotation and the Specification meet its requirements. Illuminis shall not be liable for any failure of the Licensed Programs to provide any facility or function not specified in the Quotation and the Specification.
- 5.7 The express terms of the Contract are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute common law custom trade usage course of dealing or otherwise, all of which are excluded to the fullest extent permitted by law.
- 5.8 Illuminis shall use all reasonable endeavours to meet any date for Installation referred to in the Quotation but any such date shall be deemed an estimate only and time shall not be of the essence for Installation and/or performance of the Support Services.
- 5.9 If Customer postpones the planned date for Installation or Illuminis' performance of its obligations under the Contract is otherwise prevented or delayed by any act or omission of Customer or Customer's agents, sub-contractors or employees, then except where such failure or delay is caused by a Force Majeure Event (as defined in clause 16) or by Illuminis' failure to comply with its obligations under the Contract, Customer shall in all circumstances be liable to pay to Illuminis on demand all reasonable costs, charges or losses sustained or incurred by it, subject to Illuminis confirming such costs, charges and losses to Customer in writing.
- 5.10 Illuminis shall not in any circumstances be liable to Customer:

- 5.10.1 if any defect or fault in the Licensed Programs results from Customer having altered or modified the same or is due to a defect in Customer's hardware; or
- 5.10.2 if any defect or fault in the Licensed Programs results from the Customer having used the same in breach of the Contract.
- 5.11 Except as may be expressly set out in the Contract, Illuminis:
 - 5.11.1 does not warrant that Customer's use of the Licensed Program Materials will be uninterrupted or error-free or that the Licensed Program Materials and/or the information obtained by Customer via use of the same will meet Customer's requirements;
 - 5.11.2 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and Customer acknowledges that the Licensed Program Materials may be subject to limitations, delays and other problems inherent in the use of such communications facilities; and
 - 5.11.3 is not responsible for and gives no warranties and makes no representations in relation to the legality, reliability, integrity, accuracy and/or quality of any data (including, but not limited to, any reports) generated in connection with the Licensed Program Materials which for the avoidance of doubt, includes any data that has been through a conversion process. For the avoidance of doubt, Illuminis shall have no liability to Customer in the event that Customer suffers loss as a result of its reliance on such data.

6. CUSTOMER OBLIGATIONS

- 6.1 Customer shall provide Illuminis with:
 - 6.1.1 all necessary co-operation in relation to the Installation and Configuration of the Licensed Programs as envisaged by the terms of the Quotation; and
 - 6.1.2 all necessary access in a timely manner to Customer's premises and/or the Equipment together with all such information and facilities as may be required by Illuminis in order to Install the Licensed Programs
- 6.2 Customer shall:
 - 6.2.1 use all reasonable endeavours to prevent any unauthorised access to or use of the Licensed Program Materials and in the event of any such unauthorised access or use, promptly notify Illuminis;
 - 6.2.2 not use the Licensed Program Materials in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with these Conditions, or act fraudulently or maliciously, for example, by hacking into or inserting malicious code, such as viruses, or harmful data, into the Licensed Programs or any operating system;

- 6.2.3 ensure that it and its agents, sub-contractors and employees do not infringe Illuminis' Intellectual Property Rights or those of any third party in relation to Customer's use of the Licensed Program Materials;
 - 6.2.4 not transmit any material that is defamatory, offensive or otherwise objectionable in relation to Customer's use of the Licensed Programs;
 - 6.2.5 implement virus-checking on its system and back-up its data and have appropriate procedures in place to ensure that its data is backed up regularly in accordance with prudent industry practice;
 - 6.2.6 be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to its data centres and resolving all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to Customer's network connections or telecommunications links or caused by the internet
 - 6.2.7 ensure that the terms of the Quotation, and/or any information provided to Illuminis are complete and accurate;
 - 6.2.8 (to the intent that Customer and shall be solely responsible for any Authorised User's breach of the Contract) ensure that its Authorised Users use the Licensed Program Materials in accordance with the Contract;
 - 6.2.9 be solely responsible for determining the suitability of the Licensed Programs for its business purposes and the Equipment to operate the same;
 - 6.2.10 provide in a timely manner such information as Illuminis may reasonably request, and ensure that such information is accurate in all material respects.
- 6.3 Customer shall not, without the prior written consent of Illuminis, at any time during and for the period of twelve (12) months after the termination of the same, solicit or entice away from Illuminis or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of Illuminis and who has had contact with Customer during the Contract.
- 6.4 Customer shall defend, indemnify and hold harmless Illuminis against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with Customer's use of the Licensed Program Materials in breach of these Conditions.
- 6.5 Customer shall and shall ensure that the Authorised Users shall use the Licensed Program Materials solely for the processing of Customers own data and for its own business purposes only.
- 6.6 Customer may make only such number of copies of the Licensed Program Materials as are reasonably necessary for operational security and business continuity or disaster recovery purposes. Such copies and the media on which they are stored shall be the property of Illuminis and Customer shall ensure that all such copies bear Illuminis' proprietary notices. The Licence shall apply to all such copies as it applies to the Licensed Program Materials.

- 6.7 No other copies or part-copies of the Licensed Program Materials may be made without the prior written consent of Illuminis.
- 6.8 Customer shall during the continuance of the Licence:
- 6.8.1 effect and maintain adequate security measures to safeguard the Licensed Program Materials from access or use by any unauthorised person; and
 - 6.8.2 retain the Licensed Program Materials and all copies thereof under Customer's effective control.
- 6.9 Except to the extent and in the circumstances expressly required by law, Customer shall not alter modify adapt or translate the whole or any part of the Licensed Program Materials in any way whatsoever nor permit the whole or any part of the Licensed Programs to be combined with or become incorporated in any other computer programs nor decompile disassemble or reverse engineer the same nor attempt to do or permit any of such things.
- 6.10 This clause 6 shall survive termination of the Contract, however arising.

7. ADDITIONAL AUTHORISED USERS

- 7.1 For the period of six calendar months commencing on the Installation Date there shall be no restriction upon the number of Authorised Users.
- 7.2 From the month following expiry of the period referred to in clause 7.1, the number of Authorised Users shall be two.
- 7.3 From the date specified in clause 7.2 Customer may increase the number of Authorised Users whereupon an Authorised User Access Fee shall become payable for the third and each subsequent Authorised User.

8. TERM AND RENEWAL

- 8.1 The Initial Term of the Licence shall commence on the Installation Date and (subject to earlier termination in accordance with clause 12) shall continue after expiry of the Initial Term in accordance with clause 8.2 unless Customer shall give notice to terminate this Licence not less than 30 days prior to expiry of the Initial Term.
- 8.2 Unless notice is received by Illuminis to terminate this Licence on expiry of the Initial Term in accordance with clause 8.1, the Licence will automatically renew for a period of one year (the "Renewal Term").
- 8.3 This Licence will continue to renew automatically in accordance with clause 8.2 at the end of each Renewal Term for successive periods of one year unless notice to terminate is given by Customer to Illuminis not less than 30 days prior to the end of a Renewal Term.

9. PROPRIETARY RIGHTS

- 9.1 All Intellectual Property Rights in the Licensed Programs Materials (including any modifications) are and shall at all times remain the property of Illuminis.

- 9.2 Any material or content provided by Customer to Illuminis to enable it to perform the Licensed Program Materials shall remain the sole property of Customer. Customer hereby grants to Illuminis a licence to use such material or content to enable Illuminis to Configure the Licensed Programs in accordance with the Contract.
- 9.3 Customer shall indemnify Illuminis against all damages, losses and expenses arising as a result of any action or claim that Customer's materials or content infringe the Intellectual Property Rights of a third party.
- 9.4 Customer acknowledges that it has no right to have access to the Licensed Programs in source code form or in unlocked coding or with comments.
- 9.5 Customer shall notify Illuminis in writing immediately if Customer becomes aware of any unauthorised use of the whole or any part of the Licensed Program Materials by any person and shall give all such assistance and support to Illuminis as Illuminis may reasonably require to protect Illuminis' Intellectual Property Rights.
- 9.6 Customer will permit Illuminis to check the use of the Licensed Program Materials by Customer at all reasonable times and for that purpose Illuminis shall be entitled to enter any of Customer's premises upon reasonable prior notice for which purpose Customer hereby irrevocably licenses Illuminis its employees and agents to enter any such premises.
- 9.7 This clause 9 shall survive termination of the Contract, however arising.

10. SUPPORT SERVICES

- 10.1 Subject to the remainder of this clause 10 and compliance by Customer with its obligations and responsibilities as set out in the Contract, Illuminis shall during the Term:
- 10.1.1 use its reasonable endeavours via remote connection to procure that:
- 10.1.1.1 the Licensed Programs run the Regular Updates; and
- 10.1.1.2 faults in the Licensed Programs notified to it by Customer are promptly corrected
Provided That Illuminis shall have no obligation to recover or reconstruct Customer's own computer records corrupted or lost as a result of such faults;
- 10.1.2 deliver to Customer from time to time such modifications to the Licensed Program Materials as Illuminis shall release to its Customers generally and which are compatible with the version installed for Customer;
- 10.1.3 provide Customer with all documentation which Illuminis reasonably deems necessary for the utilisation of any modified versions of or additions to the Licensed Programs; and
- 10.1.4 provide Customer with such remote technical advice by telephone or email as shall be necessary and reasonable to resolve Customer's difficulties and queries in using the current version of the Licensed Programs;
- 10.1.5 continue to Configure the Licensed Programs by installing the appropriate Customer Reports adapted to meet the needs of Customer free of charge during the Installation

period and thereafter on request for up to 4 hours in each calendar month during the Term.

- 10.2 In order to obtain the benefit of the Support Services listed in clause 10.1, Customer must:
- 10.2.1 ensure that the Licensed Programs are used on the Equipment and in a proper manner;
 - 10.2.2 notify each software fault to Illuminis as it arises and comply with its obligations in clause 6;
 - 10.2.3 co-operate fully with Illuminis in diagnosing any software fault;
 - 10.2.4 make available to Illuminis free of charge all reasonable facilities and services which are required by Illuminis to enable it to provide the Support Services including, without limitation computer runs; memory dumps; telecommunications facilities; on-line access; printouts and data preparation;
 - 10.2.5 not request permit or authorise anyone other than Illuminis to provide any support services in respect of the Licensed Programs.
- 10.3 The Support Services include guidance in the use of the Licensed Programs. Any additional training required by Customer beyond the scope of that set out in the Quotation shall be provided by Illuminis in accordance with its standard scale of charges from time to time.
- 10.4 The Support Services do not include:
- 10.4.1 attendance to faults caused by using the Licensed Programs otherwise than in accordance with the Program Documentation;
 - 10.4.2 support or maintenance of software accessories attachments computer hardware systems or other devices not supplied by Illuminis;
 - 10.4.3 diagnosis or rectification of problems not attributable to the Licensed Programs;
 - 10.4.4 loss or damage caused directly or indirectly by operator error or omission;
 - 10.4.5 on-site attendance (whether at Customer's address or otherwise) or face-to-face meetings;
 - 10.4.6 database repair, recovery or restoration;
 - 10.4.7 support or maintenance where the fault has been caused by updates or modifications to the Data Sources and/or (as applicable) the software creating the same; or
 - 10.4.8 support or maintenance for any other software (including the Data Sources);
- and any service which is provided by Illuminis as a result of any of the foregoing shall be subject to additional charges at Illuminis' standard rates from time to time in force.

11. CUSTOMER DATA

- 11.1 Customer and/or its licensors shall own all right, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the same.
- 11.2 If Illuminis shall directly or through any third party be put on notice that any Customer Data stored in the Licensed Programs is in breach of a law or infringes third party rights, Illuminis may in its discretion, without liability to Customer or its Authorised Users and without prior notice, immediately suspend Customer's access to the Licensed Programs and Customer Data held within the same. Illuminis shall notify Customer of such action as soon as reasonably practicable.
- 11.3 Except to the extent otherwise provided in these Conditions, Illuminis shall have no liability for any loss of or damage to Customer Data nor for the unreliability of or any inaccuracies in such Customer Data which may occur by reason of any conversion process and in the event of any loss, damage, unreliability of or inaccuracy in Customer Data, Customer's sole and exclusive remedy shall be to require Illuminis to use reasonable commercial endeavours to restore (at Customers' sole expense) the Customer Reports and Regular Updates from the latest back-up of relevant Customer Data maintained by Customer or its third party suppliers or (as the case may be) Illuminis. To avoid doubt, Illuminis shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by Customer or any third party.
- 11.4 Customer acknowledges that the Licensed Program Materials may enable or assist it to access the website content of and correspond with third parties via third party websites and/or application programming interfaces (API) and that it does so solely at its own risk. Illuminis makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website.
- 11.5 This clause 11 shall survive termination of the Contract, however arising.

12. TERMINATION

- 12.1 Upon termination of the Contract for any reason:
- 12.1.1 all rights granted to Customer under the Contract shall cease;
 - 12.1.2 Customer must cease all activities authorised by the Contract; and
 - 12.1.3 Customer must immediately upon request, delete or remove the Licensed Programs from all computer equipment in its possession and immediately destroy all copies of the Licensed Program Materials then in Customer's possession, custody or control and confirm to Illuminis that it has done so.
- 12.2 To the extent permitted by law and save where termination arises by reason of notice served by Customer in accordance with Clause 12.4, Fees which have been pre-paid or paid for a fixed term are non-refundable and unless otherwise agreed in writing, Illuminis shall not provide refunds or credits for any partial months of use of the Licensed Programs.
- 12.3 Illuminis may terminate the Licence immediately on giving notice in writing to Customer if:

- 12.3.1 the whole or any part of the Installation Fee or Monthly Access Fees remain overdue and unpaid for 7 days;
 - 12.3.2 an event as described in clause 14.3 shall occur;
 - 12.3.3 Customer commits any material breach of any term of the Contract (other than non-payment of Installation Fee or Monthly Access Fees) and (in the case of a breach capable of being remedied) shall have failed to remedy the same within 14 days of receipt of a request in writing from Illuminis to do so; or
 - 12.3.4 an order is made or a resolution is passed for the dissolution or winding-up of Customer or an order is made for the appointment of an administrator to manage the affairs, business and property of Customer or such an administrator is appointed or documents are filed with the court for the appointment of an administrator or notice of intention to appoint an administrator is given by Customer or its trustees, officers, directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a receiver and/or manager or administrative receiver is appointed in respect of all or any of Customer's assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/or manager or administrative receiver or which entitle the Court to make a winding-up or bankruptcy order or (being an LLP) Customer suffers or undergoes a similar or analogous action in consequence of debt or (being an individual) is subject to or undergoes bankruptcy or enters into any arrangement with his creditors or (being a partnership) any partner undergoes or suffers any similar or analogous event.
- 12.4 Customer may terminate the Licence immediately on giving notice in writing to Illuminis if:
- 12.4.1 Illuminis commits any material breach of any term of the Contract and (in the case of a breach capable of being remedied) shall have failed to remedy the same within 14 days of receipt of a request in writing from Customer to do so; or
 - 12.4.2 an order is made or a resolution is passed for the dissolution or winding-up of Illuminis or an order is made for the appointment of an administrator to manage the affairs, business and property of Illuminis or such an administrator is appointed or documents are filed with the court for the appointment of an administrator or notice of intention to appoint an administrator is given by Illuminis or its trustees, officers, directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a receiver and/or manager or administrative receiver is appointed in respect of all or any of Illuminis' assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/or manager or administrative receiver or which entitle the Court to make a winding-up or bankruptcy.
- 12.5 Any termination of the Contract (however occasioned) shall not affect the accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision of the Contract which is expressly or by implication intended to come into or continue in force on or after such termination.

13. CONFIDENTIALITY

- 13.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under the Contract. A party's Confidential Information shall not be deemed to include information that:
- 13.1.1 is or becomes publicly known other than through any act or omission of the receiving party;
 - 13.1.2 was in the other party's lawful possession before the disclosure;
 - 13.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
or
 - 13.1.4 is independently developed by the receiving party, which independent development can be shown by written evidence.
- 13.2 Subject to clause 13.4, each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of the Contract.
- 13.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of the Contract.
- 13.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 13.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 13.5 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 13.6 Customer acknowledges that details of the Licensed Program Materials, and the results of any performance tests of the Licensed Program Materials, constitute Illuminis's Confidential Information.
- 13.7 Illuminis acknowledges that Customer Data is the Confidential Information of the Customer.
- 13.8 This clause 13 shall survive termination of the Contract, however arising.

14. LIABILITY & INDEMNITY

- 14.1 Customer shall indemnify Illuminis and keep Illuminis fully and effectively indemnified on demand against any loss of or damage to any property or injury to or death of any person caused by any negligent act or omission or breach of the Contract by Customer its employees agents or sub-contractors.

- 14.2 Illuminis shall indemnify Customer against any claim that the normal use or possession of the Licensed Program Materials infringes the Intellectual Property Rights of any third party provided that Illuminis is notified promptly in writing of any claim; that Illuminis is given immediate and complete control of such claim; that Customer does not prejudice Illuminis' defence of such claim; that Customer gives Illuminis all reasonable assistance with such claim (at the cost of Illuminis) and that the claim does not arise as a result of the use of the Licensed Program Materials in combination with any equipment (other than the Equipment) or software (other than the Data Sources) not supplied or approved by Illuminis or by reason of any alteration or modification which was not made by Illuminis or with its prior written consent.
- 14.3 Illuminis shall have the right to replace or change all or any part of the Licensed Program Materials in order to avoid any infringement or to terminate this licence where any such change or replacement of Licensed Program Materials does not (in Illuminis' reasonable opinion) remove or eradicate the potential for infringement as described above. The foregoing states the entire liability of Illuminis to Customer in respect of the infringement of the Intellectual Property Rights of any third party.
- 14.4 Except in respect of injury to or death of any person or any other liability which cannot be limited or excluded by law (for which no limit applies) the respective liability of Illuminis in respect of any breach of Contract or any tortious liability (including negligence) or breach of statutory duty will be £1,000,000.00 (one million pounds).
- 14.5 Notwithstanding anything else contained in the Contract, Illuminis shall not be liable to Customer for loss of profits or contracts, loss of goodwill, loss or corruption to data or for any special indirect or consequential loss whether arising from negligence breach of contract or howsoever.
- 14.6 Customer acknowledges that the Licensed Programs rely on the accuracy of the data provided by Customer. Customer acknowledges that it must satisfy itself as to the accuracy of the data produced by the Licensed Programs and Illuminis excludes all liability for any losses damages fees or expenses incurred by Illuminis as a result of reliance placed upon any such inaccurate data.
- 14.7 This clause 14 shall survive termination of the Contract, however arising.

15. ASSIGNMENT

- 15.1 Customer shall not be entitled to assign; sub-licence; make or attempt to make any declaration of trust or sub- contract in relation to or otherwise transfer any rights granted by the Contract or agree to or attempt to do any of the foregoing acts in relation to the Contract or the Licence granted by it nor share the use of the Licence whether in whole or in part, or otherwise howsoever, with or in favour of any third party.
- 15.2 Illuminis may at any time assign, novate, charge, subcontract or deal in any other manner with any or all of its rights and obligations under the Contract. This will not affect Customer's rights or obligations under the Contract.

16. FORCE MAJEURE

- 16.1 Illuminis shall not be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure results from events, circumstances or causes beyond its reasonable control. In such circumstances Illuminis 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 three months Illuminis may terminate the Contract by giving 14 days' written notice to the other party.

17. GENERAL PROVISIONS

- 17.1 The Conditions and the Quotation represent the entire agreement between the parties with regard to their subject matter and no other terms, conditions, warranties or statements (unless fraudulent) will apply. Each party acknowledges that in entering into the Contract it does not do so on the basis of, and does not rely on any representation, unless made fraudulently, warranty or other provision not expressly contained in the Conditions or the Quotation and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not expressly set out in the Contract.
- 17.2 No person other than a party to the Contract shall have any rights to enforce any terms of the Contract.
- 17.3 Nothing in the Contract shall create (or be deemed to create) a partnership or agency between the parties.
- 17.4 The language of the Contract (including any notices and correspondence) shall be the English language.
- 17.5 To the extent that any wholly owned subsidiaries of Customer are permitted to use the Licensed Programs, the terms of the Contract shall apply to each such subsidiary (*mutatis mutandis*) in all respects as if they were each party to the Contract. Customer shall indemnify and keep Illuminis fully and effectively indemnified on demand against any loss of or damage suffered by it as a result of any failure by any such subsidiary of Customer to fully observe and perform the terms hereof.
- 17.6 If Illuminis fails to insist that Customer performs any of its obligations under the Contract, or if Illuminis does not enforce its rights against Customer, or if Illuminis delays in doing so, that will not mean that Illuminis has waived its rights against Customer and will not mean that Customer does not have to comply with those obligations. If Illuminis does waive a default by Customer, it will only do so in writing, and that will not mean that Illuminis will automatically waive any later default by Customer.
- 17.7 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision. 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 shall not affect the validity and enforceability of the rest of the Contract.
- 17.8 No party shall make, or permit any person to make, any public announcement concerning the Contract without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 17.9 Any provision of these Conditions that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract, shall remain in full force and effect.

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

18. CHANGES TO THESE CONDITIONS

18.1 Illuminis may need to change these Conditions to reflect changes in law or best practice or to deal with additional features which Illuminis introduces.

19. NOTICES

19.1 Any notice or other communication required to be given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand; email or pre-paid first class post to the last known address of that party or as one party may notify to the other in writing from time to time.

19.2 Any notice or communication shall be deemed to have been received if delivered by email, on the date which it was sent, or if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address.

19.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

20. GOVERNING LAW AND JURISDICTION

20.1 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales to settle any such dispute or claim.

THE SCHEDULE

SPECIFICATION

Octelas software is developed using the Microsoft .NET Framework. The current version of the Framework in use is 4.5 and this must be installed on the Equipment.

The Octelas Database resides on Microsoft SQL Server. An existing installation may be used or the version made available for free by Microsoft, namely SQL Server Express.

Octelas Data Extraction Module

This software is installed on the Equipment and provides the Regular Updates.

- It is scheduled to run on a regular basis
- It connects to the Octelas License Server to retrieve the current License Key and confirm that Customer is entitled to receive the benefit of the Licensed Programs, Support Services and Regular Updates
- It connects to the Data Sources and reads the data according to the customisation requirements
- The data read from the Data Sources is written into the Octelas Database
- Email confirmation may be sent to the appointed user to confirm the success or failure of the Regular Update

Octelas Web Application

This software is installed on the Equipment and provides the main functionality to the users. It is installed as a web-site in Microsoft Internet Information Support Services.

- The application is accessed from a web browser. Access from outside of the Location is enabled by either a VPN connection and/or an open port on the firewall, at the discretion of Customer.
- Primary security is handled via Integrated Windows Authentication. This means that the users username and password authentication is handled by the Windows Domain system. Alternatively and as applicable Forms Authentication may be used with optional 2 Factor Authentication
- Security within the application allows each user to be restricted to view only functionality and data that is allowed by an Illuminis System Administrator
- The specific functionality of each module and version for the Web Application is contained in a separate document made available for each released version

Octelas Housekeeping Module

This software is installed on the Equipment and provides automated emailing/generation of standard reports.

- It is scheduled to run on a regular basis
- Reports can be embedded tables or attached spreadsheets
- Reports are grouped into jobs which send emails with one or more reports
- Each job can go to a fixed set of recipients or the recipients can be linked as part of the report data (for example a sales report going to each rep for just their customers)