

# Terms and Conditions



## 1. Basis of Agreement

These terms and conditions apply to the purchase of Services and Goods from Koris365 to the exclusion of any other terms and conditions that the Customer seeks to impose, incorporate or which are implied by trade, custom or course of dealing.

## 2. Terms

### 2.1 Koris365 shall:

- 2.1.1 supply the Cloud Services pursuant to Clause 3;
- 2.1.2 supply Software pursuant to Clause 4;
- 2.1.3 provide the Managed Services pursuant to Clause 5;
- 2.1.4 provide the Cyber Security Services pursuant to Clause 6;
- 2.1.5 provide the Connectivity Services pursuant to Clause 7;
- 2.1.6 provide Support Services pursuant to Clause 8;
- 2.1.7 perform the Professional Services pursuant to Clause 9; and
- 2.1.8 supply the Hardware pursuant to Clauses 10 – 17 subject to, and in accordance with, the terms of this Agreement.

Clauses 18 to 37 apply to all services and hardware.

## 3. Cloud Services

### 3.1 Koris365 shall provide the Cloud Services in accordance with this Clause 3.

3.2 Provision of the Cloud Services shall commence on the Commencement Date and continue for the Service Period, following which the Cloud Services shall continue to be provided unless or until terminated. The Cloud Services may be terminated by either party by giving written notice a minimum of 3 months prior to date expiry of the Service Period or any subsequent anniversary thereof. Where notice is not given by either party the Cloud Services Contract will be renewed for a further 12 months from the date of expiry of the Service Period or any subsequent anniversary date thereof.

3.3 Koris365 shall use its reasonable endeavours to provide the Cloud Services. The Customer agrees that Koris365's provision of Cloud Services is dependent on the performance, availability, and functionality of third-party services and networks, and the Internet. The Customer agrees that Koris365 is not responsible for any adverse impact on the Cloud Services arising from the performance, availability, and functionality of third-party services and networks, and / or the Internet.

### 3.4 The Customer:

- 3.4.1 shall comply with any additional terms of use for the Cloud Services which may be set out in the third-party Cloud Services usage or licensing agreement; and
- 3.4.2 must not sub-license the use of, or permit third parties to use (whether directly, or as part of a managed service), the Cloud Services.
- 3.5 The Customer acknowledges that the Cloud Services are a standardised and commercially available service that has not been developed specifically for the Customer. Therefore, it is the Customer's responsibility to understand and implement any working practice changes required to make use of the Cloud Services.
- 3.6 The Customer shall not use the Cloud Services for any unlawful purpose or to send or receive data which is objectionable, including material, which is pornographic, obscene, defamatory or threatening in any way or which infringes the rights of any third party.
- 3.7 Koris365 shall deliver the Cloud Services by the applicable delivery date specified in the Koris365 Service Contract. If Koris365 agrees to supply the Customer's log in details for access to the Cloud Services:
  - 3.7.1 using electronic transmission, then delivery of the Cloud Services takes place on the later of the Services or, if applicable, the login details to use the Cloud Services, being made available by Koris365 to the Customer
- 3.8 The Customer's right to use the Cloud Services is governed solely by the third-party terms and conditions which accompany and / or are included in such Cloud Services (the "Third Party Licence Terms"). The Customer shall comply with the Third-Party Licence Terms in respect of its use of the Cloud Services.

## 4. Software

- 4.1 Koris365 shall deliver the Software by the applicable delivery date specified in Koris365 Service Contract. If Koris365 agrees to supply the Software:
  - 4.1.1 using electronic transmission, then delivery of the Software takes place on the later of the Software or, if applicable, the login details to use the Software, being made available by Koris365 to the customer; and
  - 4.1.2 on physical media, then delivery of the Software takes place when the Software is available for collection at Koris365's Premises. On such delivery of the Software:
    - 4.1.2.1 the Customer shall be responsible for:
      - (a) collecting the Software from Koris365's Premises; and
      - (b) loading the Software on to the Customer's transportation vehicle; and
    - 4.1.2.2 the risk of loss or damage in the Software shall pass to the Customer.
- 4.2 The Customer's right to use the Software is governed solely by the Third-Party Licence Terms, and the Customer shall be entitled to use the Software for the duration detailed in the Third Party Licence

Terms. The Customer shall comply with the Third-Party Licence Terms in respect of its use of the Software.

## 5. Managed Services

- 5.1 Koris365 shall provide the Managed Services in accordance with this Clause 5.
- 5.2 Provision of the Managed Services shall commence on the Commencement Date and continue for the Service Period, following which the Managed Services shall continue to be provided unless or until terminated. The Managed Services may be terminated by either party by giving written notice a minimum of 3 months prior to date expiry of the Service Period or any subsequent anniversary thereof. Where notice is not given by either party the Managed Services Contract will be renewed for a further 12 months from the date of expiry of the Service Period or any subsequent anniversary date thereof.
- 5.3 Koris365 shall use its reasonable endeavours to meet the service levels for the Managed Services specified in the Koris365 Service Contract.
- 5.4 If Koris365's provision of the Managed Services does not meet the service levels for the Managed Services specified in the Koris365 Service Contract, the Fees for the Managed Services shall be adjusted in accordance with the Koris365 Service Contract.
- 5.5 The Customer can only use the Managed Services in support of the Customer's business operations. The Customer shall comply with any additional terms of use for the Managed Services which may be set out in the access portal for the Managed Services.

## 6. Cyber Security Services

- 6.1 Koris365 shall provide the Cyber Security Services in accordance with this Clause 6.
- 6.2 Provision of the Cyber Security Services shall commence on the Commencement Date and continue for the Service Period, following which the Cyber Security Services shall continue to be provided unless or until terminated. The Cyber Security Services may be terminated by either party by giving written notice a minimum of 3 months prior to date expiry of the Service Period or any subsequent anniversary thereof. Where notice is not given by either party the Cyber Security Services Contract will be renewed for a further 12 months from the date of expiry of the Service Period or any subsequent anniversary date thereof.
- 6.3 Koris365 shall use its reasonable endeavours to meet the service levels for the Cyber Security Services specified in the Koris365 Service Contract.
- 6.4 If Koris365's provision of the Cyber Security Services does not meet the service levels for the Cyber Security Services specified in the Koris365 Service Contract, the Fees for the Cyber Security Services shall be adjusted in accordance with the Koris365 Service Contract.
- 6.5 The Customer can only use the Cyber Security Services in support of the Customer's business operations.

- 6.6 The Customer's right to use the Cyber Security Services is governed by the third-party terms and conditions which accompany and / or are included in such Cyber Security Services. The Customer shall comply with the Third-Party Licence Terms and conditions in respect of its use of the Cyber Security Services. The Customer shall comply with any additional terms of use for the Cyber Security Services which may be set out in the access portal for the Cyber Security Services.

## 7. Connectivity Services

- 7.1 Koris365 shall provide the Connectivity Services in accordance with this Clause 7.
- 7.2 Provision of the Connectivity Services shall commence on the Commencement Date and continue for the Service Period, following which the Connectivity Services shall continue to be provided unless or until terminated. The Connectivity Services may be terminated by either party by giving written notice a minimum of 3 months prior to date expiry of the Service Period or any subsequent anniversary thereof. Where notice is not given by either party the Connectivity Services Contract will be renewed for a further 12 months from the date of expiry of the Service Period or any subsequent anniversary date thereof.
- 7.3 Koris365 shall use its reasonable endeavours to provide the Connectivity Services. The Customer agrees that Koris365's provision of Connectivity Services is dependent on the performance, availability, and functionality of third-party services and networks, and the Internet. The Customer agrees that Koris365 is not responsible for any adverse impact on the Connectivity Services arising from the performance, availability, and functionality of third-party services and networks, and/ or the Internet.
- 7.4 The Customer:
- 7.4.1 shall comply with any additional terms of use for the Connectivity Services which may be set out in the Connectivity Services Description; and
- 7.4.2 must not sub-license the use of, or permit third parties to use (whether directly, or as part of a managed service), the Connectivity Services.
- 7.5 The Customer acknowledges that the Connectivity Service is a standardised and commercially available service that has not been developed specifically for the Customer. Therefore, it is the Customer's responsibility to understand and implement any working practice changes required to make use of the Connectivity Service.
- 7.6 The Customer shall not use the Connectivity Services for any unlawful purpose or to send or receive data which is objectionable, including material, which is pornographic, obscene, defamatory or threatening in any way or which infringes the rights of any third party.

## 8. Support Services

- 8.1 Koris365 shall provide the Support Services in respect of Software, Hardware, Managed Services, Cloud Services and Connectivity Services in accordance with this Clause 8.
- 8.2 Provision of the Support Services shall commence on the Commencement Date and continue for the Service Period, following which the Support Services shall continue to be provided unless or

until terminated. The Support Services may be terminated by either party by giving written notice a minimum of 3 months prior to date expiry of the Service Period or any subsequent anniversary thereof. Where notice is not given by either party the Support Services Contract will be renewed for a further 12 months from the date of expiry of the Service Period or any subsequent anniversary date thereof.

- 8.3 In respect of the provision of Support Services the Customer must:
- 8.3.1 co-operate with Koris365 in the diagnosis of incidents and / or defects that the Customer encounters, and in particular, provide sufficient information to aid Koris365 in its reproduction and diagnosis of incidents and / or defects;
  - 8.3.2 upon Koris365's reasonable request, permit Koris365 to duplicate any incidents and / or defect in the Customer's implemented environment or reasonable substitute;
  - 8.3.3 upon Koris365's correction of any incident and / or defect, provide prompt written confirmation of the resolution of such incidents and/ or defect; and
  - 8.3.4 comply with the Support Services process and other obligations set out in the Koris365 Service Contract.
- 8.4 Koris365 is not obliged to provide Support Services for any Old Versions of Software.
- 8.5 Koris365 shall not be obliged to provide Support Services in respect of any:
- 8.5.1 incidents and / or defects that result from the Customer's misuse or improper use of the Software, Hardware, Managed Services, Cloud Services and Connectivity Services;
  - 8.5.2 incidents and / or defects that result from the Customer's combination or merger of the Software, Hardware, Managed Services, Cloud Services and Connectivity Services with any hardware, service or software not supplied or supported by Koris365 or not specifically authorised by Koris365 (such authorisation not to be unreasonably withheld or delayed) to be included in the environment;
  - 8.5.3 incidents and / or defects that result from the Customer's failure to implement any maintenance updates, patches, or fixes; or
  - 8.5.4 element of the Software, Hardware, Managed Services, Cloud Services and Connectivity Services that has been modified by or on behalf of the Customer and any incidents and/or defects caused by such modification (which will extinguish Koris365's support and maintenance obligations immediately but will not entitle the Customer to any refund), except where Koris365 has provided written confirmation to the Customer that it will support such modified elements.
- 8.6 The Customer shall be responsible for entering, and complying with the terms of, any agreements required for the receipt of Third-Party Support. The Customer shall pay the Charges for the Third-Party Support (as specified in the Koris365 Service Contract) to Koris365.

## 9. Professional Services

Koris365 shall perform the Professional Services in accordance with the Koris365 Service Contract.

## 10. Supply of Goods

- 10.1 If the Service includes the supply of Goods to the Customer, the Customer acknowledges and agrees that Clauses 10 to 17 shall apply.
- 10.2 Goods supplied by Koris365 shall be warranted by the manufacturer's warranty from the date of installation or supply. Koris365 will take all reasonably practicable steps to ensure that the Goods supplied shall be fit for purpose when such purpose was made known by the Customer prior to supply based upon information supplied to the Customer.

## 11. Defective Goods

- 11.1 Koris365 undertakes that if a serious defect in materials or workmanship appears in Goods supplied by Koris365 within the period of 30 days from the date of delivery of such Goods, Koris365 shall, at its option, repair or replace the defective Goods in accordance with the manufacturer warranty, or refund the price paid for the defective Goods in full, provided that in any case, the Goods have been accepted and paid for (if normally due).
- 11.2 Koris365's obligations contained in this Clause are subject to:
- 11.2.1 the Goods having been used in an appropriate manner and/or as prescribed in the operating instructions (if any);
  - 11.2.2 the Goods being made available for collection by Koris365 upon its reasonable request;
  - 11.2.3 the Goods not having been modified or repaired (other than by Koris365) or otherwise interfered with over and above any use in the normal course of business; and
  - 11.2.4 if practicable, the Customer making no further use of the Goods which are alleged to be defective after the time the Customer discovers that they are defective.
- 11.3 Where Koris365's liability under this Clause 11 can be fulfilled by the supply of a replacement part, Koris365 will arrange for delivery and undertake liability for loss or damage in transit or otherwise to the same extent as for the Customer's original order.
- 11.4 Nothing herein shall impose any liability upon Koris365 in respect of any defect in the Goods arising out of the acts, omissions, negligence or default of the Customer, its employees or agents including, in particular but without prejudice to the generality of the foregoing, any failure by the Customer to comply with any recommendations of Koris365 as to storage and handling of the Goods.
- 11.5 Where the Goods are for delivery by instalments, any defect in any instalment shall not be a ground for cancellation of the remainder of the instalments and the Customer shall be bound to accept delivery thereof.
- 11.6 Nothing herein shall have the effect of excluding or restricting the liability of Koris365 for death or personal injury resulting from its negligence in so far as the same is prohibited by law.

- 11.7 The Customer acknowledges that Koris365 does not manufacture the Goods. Consequently, the Customer shall only be entitled to the benefit of any warranty or guarantee in relation to the Goods as is given to Koris365 by the manufacturer of the Goods.

## 12. Return of Goods

- 12.1 Unless otherwise stated in this Agreement, any Goods supplied cannot be returned without Koris365's prior written authorisation. Duly authorised returns shall be sent to Koris365's Premises at the Customer's expense.
- 12.2 Goods authorised for return must be returned complete in original packaging.

## 13. Transport and Storage

- 13.1 The means of delivery of Goods shall be at the discretion of Koris365 except where specifically requested by the Customer and agreed by Koris365 in writing.
- 13.2 If Koris365 is unable to despatch the Goods due to a request or default by the Customer, Koris365 shall be entitled, at the expiration of 7 days from the date of notification to the Customer that the Goods are ready for despatch or collection, to store the Goods either at Koris365's Premises or elsewhere. Koris365 reserves the right to charge a sum equal to the costs incurred for storage and insurance of the Goods. This provision shall be in addition to and not in substitution for any other payment of damage for which the Customer may become liable in respect of any failure by the Customer to take delivery at the appropriate time.
- 13.3 Koris365 accepts no responsibility for non-delivery of Goods in transit if it is not notified of such non-delivery within 3 days of the date of invoice.
- 13.4 The Customer shall advise Koris365 within 2 Working Days of delivery as to any Goods damaged in transit or any short delivery.
- 13.5 Koris365 will not be liable for any Goods returned without Koris365's written consent.
- 13.6 The Customer must provide Koris365 with appropriate access for delivery of Goods and facilities suitable for delivery in accordance with health & safety guidelines and policies.

## 14. Packaging

The Customer shall pay the cost of any special packaging specifically requested by the Customer or any packaging rendered necessary by delivery by any means other than Koris365's normal means of delivery.

## 15. Design Variation

- 15.1 Whilst Koris365 makes every effort to ensure the Goods supplied correspond in every respect with any sample specification or description provided as the case may be, Koris365 is not responsible for minor variations in specification, in colour or other design features, and no such minor variations shall entitle the Customer to rescind the supply of such Goods and/or the Service or shall be the subject of any

claim against Koris365 by the Customer. Any Goods which are subject to minor variations shall be to an equivalent standard.

## 16. Title and Risk

- 16.1 From the time of delivery the Goods shall be at the risk of the Customer who shall be solely responsible for their custody and maintenance but, unless otherwise expressly agreed in writing, the Goods shall remain the property of Koris365 until all payments have been made in full and unconditionally, or in the event that payment is to be made via a third party leasing company the Customer has authorised payments to be released from the leasing company to Koris365.
- 16.2 Until title of the Goods has passed under Clause 16.1 above the following shall apply:
- 16.2.1 the Customer shall keep the Goods separate and identifiable from all other Goods in its possession as bailee for Koris365;
- 16.2.2 in the event of any resale by the Customer of the Goods, Koris365 shall (without prejudice to the rules of equity relating to tracing) be beneficially entitled to the proceeds of sale or other disposition thereof so that such proceeds shall be held on trust in a separate identifiable account for Koris365 by the Customer who will stand in a strictly fiduciary capacity in respect thereof. In any case the Customer is obliged to remit to Koris365 the full invoice value of the Goods;
- 16.2.3 Koris365 shall have the power to resell the Goods, such power being additional to (and not in substitution for) any other power of sale arising by operation of law or implication or otherwise and for such purpose Koris365 and its employees and agents may forthwith enter upon any land, buildings or vehicles where the Goods or part of them are situated or are reasonably thought to be situated in order to recover them. The Customer shall for such purposes notify Koris365 of the whereabouts of the Goods; and
- 16.2.4 the Customer shall at all times keep the Goods comprehensively insured against all risks for their full price. The policy shall bear an endorsement recording Koris365's interest.

## 17. Delivery Date

- 17.1 Koris365 will use its reasonable endeavours to deliver the Goods and Service within the agreed timescales but Koris365 does not accept liability for any delay in delivery of Goods or completion of the Service which is outside of its control.
- 17.2 Delivery shall be taken by the Customer within the time as mutually agreed in writing in advance.
- 17.3 Should default be made by the Customer in paying any sum due, Koris365 shall have the right to either suspend all further deliveries until the default is made good or to cancel the order so far as Goods and/or Service remain to be delivered thereunder.

## 18. Customer Obligations

- 18.1 The Customer will:

- 18.1.1 ensure that environmental and supply conditions suitable for the Hardware on the Customer's site are maintained in accordance with the recommendations set out in the Hardware manufacturer's instructions and any reasonable instructions and directions provided by Koris365 and will keep the Hardware clean and in good condition;
- 18.1.2 allow Koris365 reasonable access to Hardware on the Customer's site;
- 18.1.3 shall use their reasonable endeavours to meet the timescales specified in the Koris365 Service Contract
- 18.1.4 provide adequate working space and facilities for Koris365's employees or agents to perform the Service;
- 18.1.5 co-operate with the diagnosis of Service or Hardware malfunctions or maintenance;
- 18.1.6 ensure that communication equipment is powered and connected at all times and any specific configurations or settings are unchanged. If Koris365 is unable to establish connectivity to the Customer's site due to the removal or disconnection of communication equipment or settings, any subsequent site visit will be paid for by the Customer in addition to the other charges due;
- 18.1.7 provide designated contacts for the reporting of Incidents (as defined in the applicable Koris365 Service Level Agreement and ensure competent and experienced staff are available to assist with remote support;
- 18.1.8 comply with all Applicable Laws with which it is bound to comply in its use of the Service;
- 18.1.9 where applicable to the Service, comply with the Koris365 Acceptable Use Policy;
- 18.1.10 obtain and shall maintain all necessary licences, consents, and permissions necessary for Koris365, its contractors and agents to perform their obligations under this Agreement;
- 18.1.11 adequately train and keep trained its staff on the use of the Service, the Hardware, the Software and the system as a whole;
- 18.1.12 maintain and operate the Hardware, Software and Service in a proper and prudent manner and ensure that only competent and experienced staff operate it;
- 18.1.13 not modify or move make any addition or adjustment to Hardware or communications equipment connected with the Service without the prior consent of Koris365;
- 18.1.14 notify Koris365 in writing of any problem or complaint regarding performance of the Service as soon as reasonably possible but in any event within 2 Working Days of becoming aware of the problem or complaint;
- 18.1.15 notify and obtain written consent from Koris365 before changing, removing or deploying any technology solutions that may affect the Service;

- 18.1.16 provide wide-area-network provision together with suitable connectivity with appropriate resilience and associated service level to support the Service if not provided as part of the Service;
- 18.1.17 be solely responsible for storing their encryption keys in a secure location, unless mutually agreed that Koris365 is permitted to hold these. The Customer acknowledges that loss of the encryption keys by the Customer will prevent recovery of Customer Data from the Service; and
- 18.1.18 be responsible for the availability of its network and those systems to be backed up by Koris365 backup and/or disaster recover service together with defining appropriate backup sets and schedules for those systems to be backed up.

## 19. Koris365 Obligations

### 19.1 Koris365 shall:

- 19.1.1 perform its obligations under this Agreement using all reasonable skill, care and diligence and in accordance with Applicable Laws with which it is bound to comply;
- 19.1.2 ensure that employees of Koris365 engaged in providing the Service will be suitably skilled and experienced to undertake the roles to which they have been appointed;
- 19.1.3 shall use their reasonable endeavours to meet the timescales specified in the Koris365 Service Contract;
- 19.1.4 obtain all necessary licences and consents necessary for it to perform its obligations under the Agreement; and
- 19.1.5 take all reasonably practicable steps to perform the Service in such a way as not to cause any fault or malfunction in the Customer's information technology systems, software and infrastructure and to ensure that the Goods and Service will perform in a way so as not to cause any interruption to the business process of the Customer or the Customer's affiliated companies.

### 19.2 Koris365:

- 19.2.1 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 the Customer acknowledges that the Service may be subject to limitations, delays and other problems inherent in the use of such communications facilities;
- 19.2.2 is not responsible for any failure to restore Customer Data due to the inability by the Customer for whatever reason to provide to Koris365 relevant information held by the Customer required for the restoration of Customer Data. This includes but is not limited to encryption keys, usernames and passwords;
- 19.2.3 Koris365 shall not be responsible for any failure to achieve deadlines or milestones in the Koris365 Service Contract to the extent that the failure has been caused by any delay or

default on the part of the Customer. Time shall not be of the essence in relation to Koris365's performance; and

19.2.4 shall use reasonable endeavours to provide the Service to the Customer on the date(s) mutually agreed.

19.3 Where Koris365 identifies any configuration or specification errors within the Customer's infrastructure or information technology systems, Koris365 shall notify the Customer and get the Customer's prior authorisation in writing (which may include by way of email) before implanting any fix, improvement, modification, variation or other change to the Customer's infrastructure or information technology systems.

19.4 Koris365 undertakes that it and its employees, agents and subcontractors will:

19.4.1 when on any premises of the Customer, display any form of identification provided by the Customer at all times; and

19.4.2 co-operate with other suppliers engaged by the Customer as reasonably necessary in performing the Service.

## 20. Third Party Providers

20.1 Where the Service is supplied with goods or services from third parties the Customer shall comply with (and ensure that its authorised users comply with) all terms and conditions relating to such third-party goods and services.

20.2 The Customer acknowledges that Koris365 is not the main supplier of such third-party goods and services and that the Customer shall only be entitled to the benefit of any warranty or guarantee in relation to such third-party goods and service as is given to Koris365 by the relevant third-party supplier.

20.3 The Customer shall indemnify and hold Koris365 harmless against any loss or damage which it may suffer or incur as a result of the Customer's breach of any terms and conditions relating to third party goods and services that are supplied with the Service.

20.4 Koris365 agrees to notify the Customer immediately should Koris365 receive notice from a third-party supplier of cancellation of a third-party supplier service and to refund any monies owed to the Customer upon receipt of any outstanding monies from such third party supplier.

## 21. Fees & Payment

21.1 Fees shall be payable by the Customer as set out this Clause 21. The Fees for Managed Services shall be adjusted in accordance with Clause 5.4 and / or Clause 21.7. The Fees for Professional Services shall be adjusted in accordance with Clause 21.6. The Fees for Support Services and / or Connectivity Services shall be adjusted in accordance with Clause 21.7. The Fees for Cloud Services shall be adjusted in

accordance with Clause 21.7. The Fees for Cyber Security Services shall be adjusted in accordance with Clause 21.7.

- 21.2 All Fees payable by the Customer to Koris365 are payable in Pounds Sterling and are exclusive of any tax, levy or similar governmental charge (including value added, withholding taxes, or sales tax) which shall be paid by the Customer at the rate and in the manner prescribed by law.
- 21.3 Fees for each of the Software, and Hardware are payable when delivery takes place for such in accordance with Clause 21.3. Fees for each of the Managed Services, Cloud Services, Cyber Security Services, Connectivity Services, and Support Services are payable annually in advance.
- 21.4 If the Fees for Professional Services are payable:
- 21.4.1 on a "time and materials" basis (as specified in the Koris365 Service Contract), then the Customer shall also pay any expenses reasonably incurred by Koris365 in performing its duties under the Koris365 Service Contract, including travel, accommodation, and subsistence expenses. Such Fees and expenses shall become payable monthly in arrears; or
- 21.4.2 on a "fixed price" basis (as specified in the Koris365 Service Contract), then such Fees shall become payable as specified in the Koris365 Service Contract.
- 21.5 Koris365 shall invoice the Customer for Fees when they become payable. The Customer shall pay each validly issued invoice from Koris365 no later than 30 days after the date of such invoice. Payment is to be made in sterling unless otherwise agreed in writing by a director of Koris365.
- 21.6 In respect of Fees for Professional Services which are payable on a "time and materials" basis (as specified in the Koris365 Service Contract):
- 21.6.1 any daily Fees rates specified in the Koris365 Service Contract are based on the provision of Professional Services during the hours of 9:00am to 5:30pm on a Working Day; and
- 21.6.2 the Fees for the provision of Professional Services at any time outside the hours and days specified in Clause 21.6.1 shall be at two hundred (200%) of the daily Fees rates specified in the Koris365 Service Contract.
- 21.7 Koris365 shall be entitled to revise the Fees for the Support Services, Managed Services, Cloud Services and / or Connectivity Services with effect from the date of expiry of the 'Service Period for such services or any subsequent anniversary of such date of expiry giving the Customer not less than 30 days' written notice of any change.
- 21.8 Koris365 determines the Charges for each invoice by considering the Customer's calculated usage for the invoice period. Consequently, if the Customer's actual usage increases, Koris365 may adjust the Charges accordingly to reflect the higher usage. For the avoidance of doubt, Charges will not be reduced below the Charges set out in the Koris365 Service Contract, unless there is a separate agreement stating otherwise.
- 21.9 Koris365 shall be entitled to revise the Fees for the Cloud Services, subject to 30 days' written notice proportionately with an increase in third party licence or user fees. Additional user or licence Fees are charged at the current Cloud Services licence or user price list.

- 21.10 If any sum payable under this Agreement is not paid by the last day that the Customer is obliged to make payment under this Clause 21, then (without prejudice to Koris365's other rights and remedies):
- 21.10.1 Koris365 shall be entitled to suspend the provision of the Services until the Customer has paid all outstanding invoices; and /or
- 21.10.2 Koris365 reserves the right to charge interest on that sum on a daily compounded basis at the rate of 4% per annum above the base rate of HSBC plc from time to time, from the due date until the date of actual payment, whether before or after judgment.
- 21.11 The parties agree that if the Customer fails to pay any sum payable under this Agreement within 30 days after the due date, such default shall constitute a material breach of contract that is incapable of remedy pursuant to Clause 29.2, entitling Koris365 to terminate immediately (and without further notice).
- 21.12 The Customer must contact Koris365 within 3 working days of receiving an invoice to raise any queries or dispute it has in relation to an invoice. The parties shall use reasonable endeavours to resolve any invoicing queries.
- 21.13 If Koris365 takes legal action for recovery of any overdue amount, the Customer shall become liable to pay Koris365 a sum equal to the legal fees and expenses incurred.
- 21.14 If payment is to be made via a third-party leasing company, the Customer shall not unreasonably withhold authorisation for payment to be released to Koris365 for the Service and Goods supplied. If the Customer shall fail to release payment authority without reasonable cause, Koris365 reserves the right to issue invoices directly to the Customer for payment subject to this Clause 21.
- 21.15 The Customer acknowledges and agrees that:
- 21.15.1 Koris365 determines the Charges for each invoice by considering the Customer's calculated usage for the invoice period. Consequently, if the customer's actual usage increases, Koris365 may adjust the Charges accordingly to reflect the higher usage. For the avoidance of doubt, Charges will not be reduced below the Charges set out in the Koris365 Service Contract, unless there is a separate agreement stating otherwise; and
- 21.15.2 any other charges or other amounts which are not set out in the Koris365 Service Contract which may fall due to be paid by the Customer to Koris365 under the Agreement shall be paid by the Customer to Koris365 monthly in arrears.
- 21.16 All payments shall be paid by direct debit to such bank account as Koris365 notifies in writing to the Customer from time to time.
- 21.17 Without prejudice to any other right or remedy that Koris365 may have, if the Customer fails to pay Koris365 on the due date Koris365 may suspend Services, including disabling the Customer's password, account or access to the Services, without any liability to the Customer until such time as any overdue amount has been paid.
- 21.18 Unless otherwise specified fees do not include travel, accommodation and subsistence expenses incurred by Koris365 in the provision of the Service. Such expenses shall be agreed in advance and the Customer shall reimburse Koris365 for any such expenses incurred on receipt of a valid invoice.

- 21.19 The Charges and any other amounts which may become payable from time to time by one Party to the other under this Agreement shall be paid by the applicable Party in full in accordance with the terms of this Agreement without set off, deduction or withholding on any account.

## 22. Warranty

- 22.1 Each Party warrants to the other that it has full power and authority to enter into and perform this Agreement.
- 22.2 Koris365 does not warrant that the Customer's use of the Service will be uninterrupted or error-free; or that the Service will meet the Customer's requirements.
- 22.3 Other than those conditions and warranties provided for in this Agreement, each Party agrees that all conditions, representations and warranties whether express or implied by statute or otherwise relating to the Service and the performance of Koris365 of its obligations under this Agreement are to fullest extent permitted by law excluded from this Agreement.

## 23. Limitation of Liability

- 23.1 Neither Party seeks to limit or exclude in any way its liability for: death or personal injury caused by negligence; for fraud or fraudulent misrepresentation; in respect of any breach of any condition implied under section 12 of the Sale of Goods Act 1979, or Section 2 of the Supply of Goods and Services Act 1982; and/or for any other matter or liability which cannot be lawfully limited or excluded.
- 23.2 Subject to Clause 23.1, Koris365's total aggregate liability, whether or not arising pursuant to an indemnity, in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising under or in connection with the performance or contemplated performance of this Agreement shall in all circumstances be limited in aggregate to the total Charges paid in the previous Contract Year (or in the first Contract Year the total Charges paid or payable up to the date the claim arose).
- 23.3 Subject to Clauses 23.1 and 23.2, Koris365 shall not be liable, whether or not pursuant to an indemnity, whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for: loss of business; loss of use; loss of profit; loss of anticipated profit; loss of contracts; loss of revenues; loss or damage to goodwill or brand; loss of anticipated savings; loss of data or use of data; product recall costs; damage to reputation; fines imposed by regulators; and/or any consequential, special or indirect loss or damage in any case, regardless of whether or not Koris365 was aware or had been made aware (or ought reasonably to have been aware) at the time of entering into this Agreement of the risk that such loss or damage might occur.
- 23.4 Koris365 shall not be liable for:
- 23.4.1 any failure or delay in complying with any of its obligations under this Agreement where such delay or failure is attributable to an act or omission of the Customer or a Force Majeure Event; or
  - 23.4.2 any defects in hardware or manufacturer faults (unless the defect or fault results from Koris365's negligence).

- 23.5 The Customer agrees to take all steps necessary to mitigate any losses, costs, expenses, claims and demands that it may seek to claim from Koris365 under or in connection with this Agreement including pursuant to any indemnity.

## 24. Auditing

- 24.1 The Customer shall keep and shall make available to Koris365 on request accurate records to enable Koris365 to verify the Customer's compliance with any third-party licences provided under this Agreement.
- 24.2 During the term of the licence granted pursuant to this Agreement or the Koris365 Service Contract, Koris365 shall have the right at any time and from time to time (subject to as provided below), during the Customer's normal business hours (upon prior reasonable written notice), to send a Koris365 employee or an independent accountant to audit the records of the Customer relating to the licensing of the Software and to verify compliance with this Agreement, or any Third Party Licence Terms. The Customer shall give such person full access to its premises, computers, employees, system logs, and relevant records for such purpose. Any such audit shall be conducted in such a manner as to minimise any interference with the Customer's normal business activities and will not include access to the Customer's cost or profit information.
- 24.3 Koris365 agrees not to cause such audits to be carried out more frequently than once a year. Each such audit shall be carried out at Koris365's expense unless it reveals a material breach of the terms of this Agreement, in which event the Customer shall pay the costs thereof.

## 25. Data Protection

- 25.1 Each Party shall comply with applicable requirements of the Data Protection Legislation. This Clause 25 is in addition to and does not replace a Party's obligations under the Data Protection Legislation. The terms "Controller", "Processor", "Data Subject", "Personal Data", "Personal Data Breach", "Process", "Processing" and "Third Country" have the meanings prescribed in the Data Protection Legislation.
- 25.2 For the purposes of the Data Protection Legislation, the Customer is the Controller and Koris365 is the Processor. The Koris365 Service Contract sets out the subject matter, nature and purpose of Processing by Koris365, the duration of the Processing, the types of Personal Data, categories of Data Subject, the obligations and rights of the Customer as Data Controller, and the parties approved to sub-Process Personal Data on behalf of Koris365 pursuant to Clause 25.3.3 below.
- 25.3 Koris365 shall:
- 25.3.1 Process Personal Data only on written instructions of the Customer. If Koris365 is required by any applicable laws to Process Personal Data it shall, to the extent legally permitted, notify the Customer before doing so;
  - 25.3.2 have in place appropriate technical and organisational measures to protect against unauthorised or unlawful Processing of, accidental loss or destruction of or damage to Personal Data, appropriate to the harm that might result from the unauthorised or unlawful Processing or accidental loss, destruction or damage and the nature of the data to be protected;

- 25.3.3 not engage another Processor without prior general written authorisation from the Customer and without ensuring that the same data protection obligations as set out in the Agreement are imposed on that other Processor and Koris365 shall remain fully liable to the Customer for performance of the other Processor's obligations to the extent the other Processor fails to fulfil their data protection obligations. Koris365 shall ensure that its agreement with the other Processor terminates automatically on termination of this DPA for any reason. The Customer gives its authorisation for the parties detailed in the Koris365 Service Agreement to Process Personal Data on behalf of Koris365. In the event Koris365 wants to update its approved Processors it shall provide the Customer with not less than 5 Working Days written notice and the Customer will have a further 5 Working Days to object to any new Processors;
- 25.3.4 ensure that persons who have access to or Process Personal Data keep the Personal Data confidential (either under contractual or statutory obligations);
- 25.3.5 ensure that where Personal Data is transferred outside of the European Economic Area it is done so on the one of the following conditions: (i) the Personal Data is Processed in a territory which is subject to a current finding by (in respect of EEA Personal Data) the European Commission or (in respect of UK Personal Data) the UK Government under the Data Protection Legislation that the territory provides adequate protection for the privacy rights of individuals; or (ii) Koris365 participates in a valid cross-border transfer mechanism under the Data Protection Legislation so that Koris365 (and where appropriate the Customer) can ensure that appropriate safeguards are in place to ensure an adequate level of protection with respect to the privacy rights of individuals as required by Article 46 of the UK GDPR. Such valid cross-border transfer mechanism may consist of EEA Standard Contractual Clauses for the transfer of EEA Personal Data or the UK IDTA or the UK Addendum for the transfer of UK Personal Data or any other approved transfer mechanism from time to time in force; or (iii) the transfer otherwise complies with the Data Protection Legislation in which case the reasons for such compliance shall be set out in the Koris365 Service Agreement; ;
- 25.3.6 notify the Customer without undue delay if it receives a request from a Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data being Processed by Koris365 pursuant to this Agreement;
- 25.3.7 notify the Customer without undue delay of a Personal Data Breach with such notification including the following information: (i) description of the nature of the Personal Data Breach including where possible the categories and approximate number of the Data Subjects concerned and the categories of Personal Data concerned; (ii) a description of the likely cause and to the extent known the likely consequences of the Personal Data Breach (iii) a description of the measures taken or proposed to be taken to address the Personal Data Breach together with measures to mitigate possible adverse effects;
- 25.3.8 taking into account the nature of Koris365's Processing and the information available to Koris365, provide reasonable assistance to the Customer complying with its obligations pursuant to Articles 32 to 36 of the UK GDPR including in relation to Data Subject rights, data protection impact assessments and reporting to and consulting with supervisory authorities under the Data Protection Legislation and Koris365 reserves the right to charge the Customer for such assistance;

- 25.3.9 at the written direction of the Customer, delete or return Personal Data to the Customer on termination of this Agreement unless Koris365 is required by law to store the Personal Data; and
  - 25.3.10 maintain complete and accurate records and information to demonstrate its compliance with this Clause and allow for audits by the Customer or the Customer's designated auditor, provided that the Customer shall provide reasonable notice of any audit it wishes to carry out (which shall be carried out during Koris365's normal business hours in a manner that limits disruption), the Customer shall bear the costs associated with carrying out any such audit and there shall be no more than one audit in any rolling 12 month period (unless the Customer believes, acting reasonably, that Koris365 is breaching this Clause 25 or the Data Protection Legislation).
- 25.4 Koris365 shall immediately inform the Customer if, in its opinion, an instruction from the Customer infringes the Data Protection Legislation.
  - 25.5 The Customer 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 Customer Data.
  - 25.6 Koris365 shall follow its archiving and back-up procedures for Customer Data as set out in the Koris365 Service Description. In the event of any loss or damage to Customer Data (howsoever caused), the Customer's sole and exclusive remedy shall be for Koris365 to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Koris365 in accordance with the archiving and back-up procedure described in the Koris365 Service Description. Koris365 shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party.

## 26. Confidentiality

- 26.1 Each Party shall protect the Confidential Information of the other Party against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care.
- 26.2 Each party that receives Confidential Information ("Receiving Party") from the other ("Disclosing Party") shall:
  - 26.2.1 keep the Confidential Information confidential;
  - 26.2.2 not disclose the Confidential Information to any other person other than with the prior written consent of the Disclosing Party or in accordance with Clauses 21.3 or 21.4; and
  - 26.2.3 not use the Confidential Information for any purpose other than the performance of its obligations or its enjoyment of rights under this Agreement ("Permitted Purpose").
- 26.3 The Receiving Party may disclose Confidential Information to its own, or any of its Affiliate's, officers, directors, employees, staff, and advisers who reasonably need to know for the Permitted Purpose (each a "Permitted Third Party"). In the event that the Receiving Party discloses Confidential Information to any Permitted Third Party pursuant to this Clause 26.3, the Receiving Party shall remain liable to the Disclosing Party for the acts, omissions, and compliance with the terms of this Clause 26 of such Permitted Third Party as if such Permitted Third Party was the

Receiving Party (and a party to this Agreement). The Receiving Party shall ensure that each Permitted Third Party is made aware of and complies with all the Receiving Party's obligations of confidentiality under this Clause 26.

- 26.4 If required by law, the Receiving Party may disclose Confidential Information to a court or regulatory authority or agency, provided that reasonable advance notice is given to the Disclosing Party and the Receiving Party co-operates with any attempt by the Disclosing Party to obtain confidentiality protection in respect of such information.
- 26.5 The parties agree that any breach of the restrictions contained in this Clause 26 may cause irreparable harm to the innocent party, whereupon the innocent party shall be entitled to injunctive relief without the necessity of proving damages or the inadequacy of money damages, posting any bond or other security in addition to all other legal or equitable remedies.
- 26.6 The obligations set out in this clause shall not apply to Confidential Information that the Receiving Party can demonstrate:
- 26.6.1 is or has become publicly known other than through breach of this clause; or
  - 26.6.2 was in the possession of the Receiving Party prior to disclosure by the other party; or
  - 26.6.3 was received by the Receiving Party from an independent third party who has full right of disclosure; or
  - 26.6.4 was independently developed by the Receiving Party; or
  - 26.6.5 was required to be disclosed by a governmental authority, provided that the party subject to such requirement to disclose gives the other prompt written notice of the requirement.
- 26.7 The obligations of confidentiality in this clause shall not be affected by the expiry or termination of this Agreement.

## 27. Intellectual Property Rights

- 27.1 Koris365 and/ or its licensors own all Intellectual Property Rights in the Services or Software.
- 27.2 Nothing in this Agreement shall have the effect of transferring ownership of any Intellectual Property Rights to the Customer.
- 27.3 The Customer shall promptly enter into such documentation as is reasonably required by Koris365 to vest ownership of Intellectual Property Rights in accordance with this Clause 27.
- 27.4 Koris365 grants a royalty-free, non-transferable, non-exclusive licence to the Customer of any and all of Koris365's Intellectual Property Rights for the duration of the Term and to the extent required for the sole purpose of receiving the Service and performing its obligations and exercising its rights under this Agreement.
- 27.5 The ownership of intellectual property rights in any documentation (including but not limited to the records, designs, reports and specifications) and other materials (including but not limited to databases

and software) that are created exclusively for the Customer and delivered by Koris365 shall vest absolutely in the Customer.

- 27.6 Subject to Clause 27.8, in the event of any claim or allegation that Koris365's provision of the Service infringes the Intellectual Property Rights of any third party then provided that:
- 27.6.1 the Customer gives Koris365 prompt notice of any such claim or allegation of which it becomes aware;
  - 27.6.2 allows Koris365 sole authority to defend or settle such claim; the Customer makes no admission as to, or settlement or compromise of any claim or action without Koris365's prior written consent; and
  - 27.6.3 provides Koris365 with such support and assistance as it may reasonably request then,  
Koris365 shall:
    - 27.6.3.1 defend the Customer against such claim and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claim; and
    - 27.6.3.2 procure the right for the Customer to continue using the Service so as to avoid the infringement claimed; or
    - 27.6.3.3 replace or modify the Service so that it continues to fulfil substantially the same purposes as described in the documents which compromise this Agreement but avoiding the infringement claimed.
- 27.7 If Koris365 is unable to fulfil its obligations under Clauses 27.6.3.2 and 27.6.3.3 then Koris365 shall be entitled to terminate this Agreement immediately on notice to the Customer.
- 27.8 Notwithstanding the terms of Clause 27.6, Koris365 shall have no liability in respect of any claim that Koris365's provision of the Service infringes the Intellectual Property Rights of any third party where the infringement claimed of is attributable to:
- 27.8.1 any modification made to the Service by the Customer;
  - 27.8.2 any third party acting without the authority of Koris365; and/or
  - 27.8.3 any failure by the Customer to use and access the Service in accordance with this Agreement.
- 27.9 Notwithstanding any other term of this Agreement, the provisions of this Clause 27 state the Customer's sole and exclusive rights and remedies in respect of any claim or allegation that the provision of the Service by Koris365 infringes the Intellectual Property Rights of any third party.

## 28. Cancellation

- 28.1 No contract or order for the Service and/or the Goods may be cancelled by the Customer without Koris365's written consent, which will not be unreasonably withheld. If cancellation is accepted by Koris365 (at Koris365's sole discretion), Koris365 will invoice, and the Customer will pay, for all Goods

supplied and Service completed and expenses properly incurred up to the date of cancellation including purchase of any Goods ordered in advance of supply.

## 29. Default and Early Termination

- 29.1 This Agreement may be terminated immediately upon giving notice to the other if the other Party:
- 29.1.1 is in material breach of any of its obligations under this Agreement and, in the case of any material breach which is capable of remedy, does not remedy such breach within the 30 days after receiving written notice from the other Party requiring it to do so; or
  - 29.1.2 suffers an Insolvency Event or is unable to pay its debts or ceases to trade.
- 29.2 Koris365 may terminate this Agreement immediately upon giving notice to the Customer if the Customer fails to make any payment due to Koris365 under this Agreement on or before the due date for payment. Koris365 may suspend all Service until payment has been made in full.
- 29.3 If the Customers suffer any of the events as detailed in Clause 29.1.2 Koris365 may withhold or suspend access to the Service without notice or liability until payment in full of all overdue amounts is made by the Customer.
- 29.4 If Koris365 terminates this Agreement pursuant to Clause 29.1 then in addition to any other sums due under this Agreement the Customer shall pay an early termination fee of a sum equal to the total Monthly Charges which would have been payable by it under this Agreement for the unexpired period of the term within 30 days of the date of such termination.
- 29.5 The Parties acknowledge and agree that any early termination fee which may become payable by the Customer pursuant to Clause 29.4 represents a genuine and commercially reasonable pre-estimate by the parties of the loss and damage which Koris365 would suffer in the event of such early termination. Payment of any such early termination fee by the Customer shall be a non-exclusive remedy for Koris365.
- 29.6 Upon termination or expiry of this Agreement for whatever reason:
- 29.6.1 all outstanding amounts accrued to be paid by the Customer under this Agreement prior to the date of termination or expiry shall immediately become due for payment and, in respect of Service supplied but for which no invoice has been submitted, Koris365 may submit an invoice, which shall be payable immediately on receipt;
  - 29.6.2 all licences granted to the Customer under this Agreement shall immediately terminate;
  - 29.6.3 any provision which expressly or by implication is intended to come into or remain in force on or after termination shall continue in full force and effect;
  - 29.6.4 each of the parties shall immediately return to the other Party (or, if the other Party so requests by notice in writing, destroy) all of the other Party's property in its possession at the date of termination, including all of its Confidential Information, together with all copies of such Confidential Information, and shall make no further use of such Confidential Information; and

29.6.5 Koris365 may destroy or otherwise dispose of any of the Customer Data in its possession or under its control unless Koris365 receives, no later than 10 days after the effective date of the termination or expiry, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. Koris365 shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of receipt of such a written request, provided that the Customer has a paid all sums due to Koris365. The Customer shall pay all reasonable expenses incurred by Koris365 in returning or disposing of Customer Data.

29.7 The termination of this Agreement shall be without prejudice to the rights and remedies of either Party which may have accrued up to the date of termination.

## **30. Force Majeure**

30.1 Neither party shall be liable for any delay or failure in performing its duties under this Agreement caused by a Force Majeure Event.

## **31. Personnel**

31.1 Each Party will be responsible for the supervision, direction and control of its own staff.

31.2 During the term of this Agreement, neither party shall, without the prior written consent of the other, actively initiate recruitment of any employee of the other who performed material obligations under this Agreement (excluding administrative, secretarial, or other back-office functions). If the restriction set forth in this Clause 31.2 is found by any court of competent jurisdiction to be unenforceable because it extends for too long a period of time or over too great a range of activities or in too broad a geographic area, it shall be interpreted to extend only over the maximum period of time, range of activities or geographic area for which it may be enforceable.

31.3 If a party breaches Clause 31.2, it shall pay the other party an amount equal to the last 12 months' salary of the applicable individual in recognition of the value of the individual to the other party and the inconvenience that would be caused. The parties agree that this sum is a genuine pre-estimate of the loss likely to be suffered by the other party in these circumstances and not a penalty. Payment of the above referenced amount shall be a party's only remedy for a breach of Clause 31.2

## **32. Publicity**

32.1 Without prejudice to Clause 26 neither party shall publicise the existence of this Agreement or the relationship between the parties without the prior written consent of the other, such consent not to be unreasonably withheld or delayed.

## **33. Disputes**

33.1 Any dispute arising under this Agreement should first be escalated to each party's contacts (as specified in the Koris365 Service Contract). If the dispute remains unresolved for at least 7 days, it shall be referred to the senior executives of the parties who shall attempt resolution through discussions.

33.2 If the matter has not been resolved by the senior executives within 30 days of the initiation of discussions, either party shall be entitled to refer the dispute to the exclusive jurisdiction of the courts of England and Wales.

## 34. Notice

34.1 All notices under this Agreement shall be in writing and shall be sent to the address of the recipient set out in Koris365 Service Contract or to such other address as the recipient may have notified from time to time. Any notice may be delivered personally, by a reputable courier service, by first-class post or by email and shall be deemed to have been served if by hand when delivered, if by courier service or first-class post 48 hours after delivery to the courier or posting (as the case may be), or if by email immediately.

## 35. General

### 35.1 Assignment.

35.1.1 The Customer shall not assign or otherwise transfer this Agreement or any of its rights and duties hereunder whether in whole or in part without the prior written consent of Koris365.

35.1.2 Koris365 may assign, novate, or sub-contract this Agreement or the performance of any of its duties under this Agreement.

35.1.3 Subject to the foregoing, the rights and liabilities of the parties hereto are binding on, and shall inure to the benefit of, the parties and their respective successors and permitted assigns.

35.2 Relationship of the parties. Nothing in this Agreement shall render the Customer a partner or an agent of Koris365 and the Customer shall not purport to undertake any obligation on Koris365's behalf nor expose Koris365 to any liability nor pledge or purport to pledge Koris365's credit.

35.3 Anti-Bribery and Modern Slavery. Each Party shall comply with the Bribery Act 2010 and the Modern Slavery Act 2015 and not do, or omit to do, any act that will cause the other to be in breach of the Bribery Act 2010 or the Modern Slavery Act 2015.

35.4 Further Assurance. At any time, each Party shall sign all documents and do or cause to be done all further acts and things as that Party so requiring may reasonably require to give full effect to the terms of this Agreement.

35.5 Entire Agreement. This Agreement contains all the terms which the parties have agreed with respect to its subject matter and supersedes all previous agreements and understandings between the parties (whether oral or in writing) relating to such subject matter. Each Party acknowledges and agrees that it has not been induced to enter into this Agreement by a statement or promise which it does not contain. All warranties, conditions and other terms (whether express or implied) which are not set out in this Agreement are (to the fullest extent permitted by law) excluded from this Agreement.

35.6 Third Party Rights. For the purposes of the Contracts (Rights of Third Parties) Act 1999 no person who is not a Party to this Agreement shall have any right to enjoy the benefit or enforce any of the terms of this Agreement other than Affiliates of Koris365.

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

- 35.8 Waiver. Failure to exercise (or to fully exercise), or any delay in exercising, any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy under this Agreement or by law.
- 35.9 Severability. If any provision of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, illegal or unenforceable in any jurisdiction then it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible that provision shall be deemed to be omitted from this Agreement in so far as this Agreement relates to that jurisdiction and the validity and enforceability of that provision in other jurisdictions and the other provisions of this Agreement shall not be affected or impaired.
- 35.10 Counterparts. This Agreement may be executed and delivered in any number of counterparts, each of which is an original and which, together, have the same effect as if each Party had signed the same document.

## 36. Governing Law and Jurisdiction.

- 36.1 This Agreement 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 English law.
- 36.2 subject to Clause 33, the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims). Save that claims may be brought in any competent jurisdiction for (i) injunctive relief and (ii) claims relating to intellectual property or for breaches of confidentiality obligations, each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

## 37. Definitions

- 37.1 In this Agreement the following words have the following meanings:

“Affiliate”	in respect of either Party, a company which is a Subsidiary of that Party or which is a Holding Company of that Party, or a Subsidiary of such Holding Company. The terms “Subsidiary” and “Holding Company” shall have the same meaning as set out in section 1159 Companies Act 2006;
“Agreement”	means the agreement between the Parties comprising these terms and conditions, the Koris365 Service Contract, and any documents set out in it;
“Applicable Laws”	all applicable laws, statutes, regulations and codes from time to time in force;
“Charges”	the charges for the Services and/ or Goods set out in the Koris365 Service Contract and payable in accordance with Clause 21;

<b>"Cloud Services"</b>	the cloud services provided in accordance with Clause 3, as detailed in the Koris365 Service Contract;
<b>"Commencement Date"</b>	the date the Service, as defined in the Koris365 Service Contract is made available to the Customer or as agreed with the Customer in writing, whichever is the sooner;
<b>"Confidential Information"</b>	shall mean all non-public business and financial information of a party including but not limited to any information relating to the inventions, ideas, designs, works of authorship, know-how, trade secrets and business affairs of either party, whether disclosed before or after the date of this Agreement, but not such information that is or becomes available The general public without fault or action of the Receiving Party, information or data of whatever nature relating to either Party's business, customers, prices, plans, strategies, including prospective business and prospective customers which is obtained, whether (without limitation) in writing, pictorially, in machine readable form or orally, by the other Party together with any information which would be regarded as confidential by a reasonable business person;
<b>"Connectivity Service"</b>	the connectivity services as detailed in the Koris365 Service Contract, provided in accordance with Clause 7;
<b>"Contract Year"</b>	Each period of 12 months commencing on the Effective Date and each anniversary of the Effective Date, providing that the final Contract Year shall commence on the last anniversary of the Effective Date and end on the date the Agreement terminates which may be a period of less than 12 months;
<b>"Customer"</b>	the entity contracting for the Service from Koris365 as defined in the Koris365 Service Contract;
<b>"Customer Data"</b>	any data inputted by the Customer, its employees or by any third parties acting on the behalf of the Customer for the purposes of using the Service or facilitating the Customer's use of the Service;
<b>"Cyber Security Services"</b>	means the managed services provided in accordance with Clause 6 set out in the Koris365 Service Contract;
<b>"Data Protection Legislation"</b>	means in each case to the extent applicable to the parties and as amended, superseded, replaced or updated from time to time: (i) the UK GDPR; (ii) the GDPR; (iii) the Data Protection Act 2018; (iv) the Privacy and Electronic Communications (EC Directive) Regulations 2003; (v) any other applicable data protection and privacy laws;
<b>"EEA Personal Data"</b>	means Personal Data originating from the European Economic Area;
<b>"EEA Standard Contractual Clauses"</b>	means the standard contractual clauses approved by the European Commission as a valid mechanism for the transfer of EEA Personal Data to a Third Country from time to time in force;

“Effective Date”	the date set out in the Koris365 Service Contract;
“Force Majeure Event”	Any event beyond the reasonable control of Koris365 including but not limited to any act of God, war, riot, terrorism, explosion, abnormal, extreme or unusual weather conditions, natural disaster, loss of utilities, failure of a transport or telecommunications network, pandemic or epidemic, fire, flood, strike, lock out or industrial dispute and/or governmental or regulatory authority action;
“GDPR”	means the General Data Protection Regulation ((EU) 2016/679);
“Goods”	the equipment, Hardware, peripherals, accessories, or other items described in the Koris365 Service Contract;
“Hardware”	network, server, storage or other technology infrastructure appliances deployed by Koris365 and/or the Customer to deliver the Service;
“Intellectual Property Rights”	any current and future intellectual property rights and interests including patents, utility models, designs, design rights, copyright (including rights in software), decryption rights, database rights, trade marks, rights pursuant to passing off, service marks, business and trade names, domain names, know-how, topography rights, inventions, rights in confidential information (including technical and commercial trade secrets) and image rights, and rights of a similar or corresponding character in any part of the world, in each case whether registered or not and including any application for registration and renewals or extensions of such rights in any country in the world;
“Insolvency Event”	means a Party: <ul style="list-style-type: none"><li>(a) enters into liquidation or a winding up petition is presented against the company or a resolution is passed for the voluntary winding up of the party;</li><li>(b) enter into administration or any steps are taken to place the company into administration such as the filing at court of an administration application or a notice of intention to place the Party into administration;</li><li>(c) has a receiver, liquidator, administrator, nominee, supervisor trustee or an individual with a similar role appointed over any of its assets; or</li><li>(d) proposes to make any arrangement with its creditors or goes into liquidation; or</li><li>(e) suffers an event which, under the law of any jurisdiction, is equivalent to any of the acts or events specified above;</li></ul>

"Managed Services"	means the managed services provided in accordance with Clause 5 set out in the Koris365 Service Contract;
"Monthly Charge"	the recurring monthly charges payable by the Customer to Koris365 for the Service as set out in the Koris365 Service Contract;
"Old Version"	a version of Software that is one major release behind the version of the Software that Koris365 is currently shipping;
"Party"	the Customer and Koris365, together the "Parties";
"Service"	the service to be provided by Koris365 to the Customer in accordance with and subject to this Agreement, such service being as detailed in the Koris365 Service Contract;
"Koris365"	Koris365 UK Limited, Converged IT Limited or Koris365 Ireland Limited as further described in the Koris365 Service Contract;
"Koris365's Premises"	the premises notified to the Customer by Koris365 from time to time or if not so mentioned, Unit 15, Pavilion Business Park, Leeds, LS12 6AJ or No 8 Grovelands, Boundary Way, Hemel Hempstead Industrial Estate, Hemel Hempstead, Hertfordshire HP2 7TE;
"Koris365 Service Contract"	the documents, which include the Koris365 Quote, any attachments to the Koris365 Quote, and Koris365 Service Descriptions which set out in detail the Service to be provided by Koris365 to the Customer;
"Koris365 Service Description"	the document setting out the description of the Service, as set out in the Koris365 Service Contract;
"Koris365 Service Level Agreement"	the service level agreement relevant to the Service, as set out in the Koris365 Service Contract;
"Koris365 Acceptable Use Policy"	the policy shown on Koris365's website from time to time;
"Professional Service"	the professional services detailed in the Koris365 Service Contract provided in accordance with Clause 9;
"Service Period"	the duration of the Service as set out in in the Koris365 Service Contract;
"Software"	network, server, storage or other technology infrastructure software, code or scripts deployed by Koris365 and/or supplied by the Customer to deliver the Service;

“Support Services”	the support services detailed in the Koris365 Service Contract provided in accordance with Clause 8;
“UK Addendum”	means the addendum to the EEA Standard Contractual Clauses approved by the Information Commissioner’s Office as a valid mechanism for the transfer of UK Personal Data to a Third Country;
“UK GDPR”	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018;
“UK IDTA”	means the International Data Transfer Agreement approved by the Information Commissioner’s Office as a valid mechanism for the transfer of UK Personal Data to a Third Country;
“Working Day”	a day other than a Saturday, Sunday or public holiday in England when the banks in London are open for business.

37.2 In this Agreement: Clause headings are inserted for convenience only and shall not affect the construction or interpretation of this Agreement; references to clauses and Schedules are to the clauses and schedules of this Agreement; words denoting the singular shall include the plural and vice versa; words denoting any gender shall include all genders; any reference to any law, statute, statutory provision, statutory instrument, directive, subordinate legislation, code of practice or guideline shall be construed as a reference to the same as may be amended, consolidated, modified, extended, re-enacted or replaced from time to time; reference to any of the documents which comprise this Agreement includes a reference to those documents as the same may be amended or varied from time to time in accordance with their provisions; and use of words such as “include”, “including” and “in particular” shall not limit the generality of any preceding or following words which are not intended to be exhaustive.