

P.C.T.I. SOLUTIONS LIMITED

SERVICE LEVEL AGREEMENT RELATING TO DOCMAN

These terms and conditions apply to the provision to the Customer (as defined by below) of support and maintenance services in relation to the Software (as defined below) by P.C.T.I. Solutions Limited, a company registered in England and Wales, company number 03342552 whose registered office is at Pioneer Court, Pioneer Way, Whitwood, Castleford, West Yorkshire, WF10 5QU (“**Supplier**”).

1 **Definitions and interpretation**

1.1 In these terms and conditions the following words and expressions shall have the meanings set out below:

“**Agreement**” means the agreement formed under these terms and conditions and the Quotation;

“**Confidential Information**” means the Software and any information which is designated by the party disclosing it to be confidential;

“**Customer**” means the customer identified in the Quotation;

“**DPA**” means the Data Protection Act 1998;

“**Escalation Point**” means the Supplier’s personnel allocated to dealing with customer queries regarding Supplier Response Times as detailed in the Schedule;

“**Fault**” means a demonstrable fault, error or other problem in the Software that is capable of replication by the Supplier;

“**Initial Term**” means the initial term as set out in the Quotation;

“**Personal Data**” means personal data (as defined in the DPA) received or accessed by the Supplier in the course of providing the Support Services;

“**Quotation**” means the accepted quotation or accepted order provided by the Supplier;

“**Response Time**” means the target response time set out in the Schedule for the relevant Severity Level;

“**Severity Level**” means the severity level of a Fault, as set out in the Schedule;

“**Software**” means the Supplier’s “Docman”, EDT and Intellisense software, including any modules within such software that can be activated, bug fixes, workarounds, patches and other minor modifications to it supplied in accordance with clause 2 and any

Upgrades to it supplied in accordance with clause 3;

“**Support Fees**” means the fees payable in respect of the Support Services, as set out in the Quotation;

“**Support Hours**” means the hours of 9am to 5.30pm Monday to Friday excluding bank and public holidays in the UK;

“**Support Services**” means the software support and maintenance services set out in clauses 2 and 3;

“**Upgrade**” means all new versions/releases of or other revisions or amendments to the Software made available by the Supplier; and

“**Working Hours**” means hours during the Support Hours.

1.2 If there is any conflict between these terms and conditions and the Quotation, these terms and conditions will take precedence.

2 **Support Services**

2.1 The Supplier shall provide the Support Services to the Customer save that if the Customer is not using the most recent version or release of the Software then the Supplier reserves the right not to provide the Support Services.

2.2 The Supplier shall provide to the Customer access to a helpdesk facility during Support Hours by telephone, fax or email, including advice and assistance on issues relating to the configuration of the Software.

2.3 If there is a Fault, the Customer shall notify the Supplier’s helpdesk using the contact information provided by the Supplier from time to time. The Supplier shall acknowledge notification of any Fault and shall use reasonable endeavours to provide such acknowledgement within the relevant Response Time.

2.4 The Supplier shall use reasonable endeavours to resolve any Faults of Severity Level 1 as soon as reasonably possible by accessing the Software remotely or speaking to the Customer’s support contacts appointed in accordance with clause 4.1.3. The Supplier may in its discretion resolve a

- Fault by providing a bug fix, workaround, patch or other minor modification to the Software. If the Supplier is unable to resolve a Fault remotely, it may in its sole discretion attend the Customer's premises to try to resolve the Fault. If the Quotation states that the Support Fees include "On-Site Support" then the Supplier shall use reasonable endeavours to attend the Customer's premises to try to resolve the Fault within:
- 2.4.1 eight Working Hours of notifying the Customer that it is unable to resolve the Fault remotely if the Customer's premises are within Great Britain (meaning England, Wales and Scotland, and not including Northern Ireland, the Channel Islands or the Isle of Man); or
 - 2.4.2 an agreed timescale if the Customer's premises are located anywhere other than in Great Britain.
- 2.5 The Supplier shall not be liable to provide Support Services where any Fault results from or is connected with:
- 2.5.1 any improper use, operation or neglect of the Software including its operation under adverse environmental or electrical conditions;
 - 2.5.2 the Customer's breach of clause 4 or failure to implement recommendations in respect of or solutions to Faults previously advised by the Supplier;
 - 2.5.3 use of the Software in breach of the Customer's licence for use or failure to use the Software in accordance with any documentation or other instructions provided with it;
 - 2.5.4 any repair, adjustment, alteration or modification of the Software or maintenance of the Software by the Customer or any person other than the Supplier without the Supplier's prior written consent;
 - 2.5.5 use of the Software with any software, hardware, networks or other IT infrastructure or operating system environment that does not meet the requirements set out in the Quotation and/or any other documentation provided to the Customer by the Supplier;
 - 2.5.6 any refresh or other change to the Customer's hardware, networks or other IT infrastructure or operating system;
 - 2.5.7 any parts or modules of the Software that are not owned by the Supplier, including but not limited to Omnipage;
 - 2.5.8 any interfaces between the Software and software that is not owned by the Supplier, including any third party application programming interfaces (APIs); or
 - 2.5.9 use by the Customer beyond the period of 14 days from the supply of any Upgrade of any unsupported version of the Software, being a version other than the most recent version of the Software delivered or made available to the Customer.
- 2.6 The Supplier reserves the right:
- 2.6.1 to refuse to respond to requests for Support Services made by any person who the Customer has not nominated as one of its support contacts in accordance with clause 4.1.2 and in the event that any such person makes a request for Support Services, the Supplier shall be entitled to redirect that person to the Customer's nominated support contacts;
 - 2.6.2 to monitor requests for Support Services and levels of support requested and, if it is found that an excessive number of inappropriate requests for Support Services (including but not limited to requests for training that purport to be requests for Support Services) are being made, to suspend the Support Services whereupon the Customer shall investigate the number of requests being made and the reasons for such requests to find out the reasons for the number of requests and to reduce the number of such requests;
 - 2.6.3 to suspend any functions or services provided by the Software while it is endeavouring to resolve a Fault; and
 - 2.6.4 to refuse to supply Support Services in respect of any alleged fault that could have been resolved by the Customer following any instructions set out in any related documentation provided by the Supplier.
- 2.7 The Supplier reserves the right to charge the Customer an additional sum at its standard consultancy rates from time to time if:
- 2.7.1 Support Services are provided in respect of any Fault resulting from or connected with any of the circumstances set out in clause 2.5;
 - 2.7.2 Support Services are provided by the Supplier in relation to any matter referred to in clause 2.6;
 - 2.7.3 performance of the Support Services is made more difficult or costly as a

result of the Customer's failure to inform the Supplier of a problem as soon as reasonably practicable;

2.7.4 the Customer requests the Supplier to perform the Support Services outside the Support Hours; or

2.7.5 the Customer requests that the Supplier provides the Support Services at any of its premises and the Quotation does not state that the Support Fees include "On-Site Support".

3 Upgrades

3.1 From time to time, the Supplier may make Upgrades available to the Customer.

3.2 Where the Supplier makes available to the Customer an Upgrade that materially adds to the functionality of the Software or is identified by a change of the Software version number before the first decimal point, the Customer shall be liable to pay additional Support Fees and any other applicable fees in respect of the Upgrade of such amount as is agreed between the parties.

3.3 The Supplier may at its discretion make available minor Upgrades (being any Upgrade other than an Upgrade made available under clause 3.2) to the Customer free of any additional charge.

3.4 The Customer shall install all Upgrades promptly upon receipt. On the expiry of 14 days after the Supplier has made an Upgrade available to the Customer, the Supplier reserves the right not to provide the Support Services in respect of the Software without the Upgrade.

4 Customer obligations

4.1 The Customer shall:

4.1.1 purchase the Support Services in respect of all its licensed copies of the Software;

4.1.2 ensure that all requests for Support Services referred to the Supplier relate to Faults and do not relate to hardware problems, user specific issues or failure to follow instructions set out in any documentation relating to the Software provided by the Supplier;

4.1.3 nominate appropriately technically qualified and experienced persons within its organisation who shall be the points of contact between the Supplier and the Customer for all requests for Support Services and all other matters arising in relation to this Agreement and shall notify the Supplier in writing at least 10 working

days in advance of any changes made to such nominations;

4.1.4 provide promptly all information, data and assistance reasonably required by the Supplier to enable the Supplier to provide the Support Services and in particular adequate information and written material to enable the Supplier to recreate any Fault in respect of which the Customer requests the Support Services;

4.1.5 procure that all the Supplier's installation, operation and maintenance instructions including the installation of Upgrades are followed in relation to the Software, including the maintenance of appropriate environmental conditions for the Software;

4.1.6 procure that the Software is operated only by competent users in a proper manner and in accordance with the terms of any licence for use and any related documentation;

4.1.7 ensure that the relevant units of the Customer's hardware remain switched on and connected to the internet by a connection configured in accordance with any documentation related to the Software and permit the Supplier to access and amend any information and data relating to the Software that is stored on them so that the Supplier can provide the Support Services remotely and any necessary downloads can be completed;

4.1.8 where the Supplier is to provide the Support Services at the Customer's premises under clause 2.4, ensure that the Supplier's staff are given access to any premises and staff necessary to allow the provision of such Support Services;

4.1.9 take frequent and regular backups of all data and configuration information relating to the operation of the Software;

4.1.10 not permit anyone other than the Supplier's authorised representatives to provide any support or maintenance services in respect of the Software;

4.1.11 not use the Software or any part of it knowing it to be faulty without the Supplier's knowledge and consent; and

4.1.12 not extract any data from the Software or perform a data conversion for the purpose of moving the data to a replacement product.

5 Fees and payment

- 5.1 The Support Fees shall be due and payable by the Customer to the Supplier in respect of the first year's Support Services upon execution of this Agreement and in respect of each subsequent year's Support Services annually thereafter.
- 5.2 If the Customer terminates this Agreement in accordance with its terms, other than for a reason set out in clause 8.2, at any time and subsequently seeks to purchase Support Services for the Software again at any time in the future, the Supplier shall be entitled to charge the Customer at its then current rates in respect of any period following such termination during which the Customer did not purchase Support Services in respect of the Software and for any relevant third party costs associated with such period or with the reactivation of Support Services.
- 5.3 The Supplier may increase the Support Fees and any other fees payable under this Agreement on the first anniversary of the execution of this Agreement and on each subsequent anniversary by notifying the Customer in the annual invoice in respect of the Support Fees.
- 5.4 The Supplier will invoice the Customer for the amount of the Support Fees and any other sums due under this Agreement when such sums fall due. If the Customer does not pay the Support Fees or any other sums due under this Agreement within 30 days of the date of the relevant invoice, the Supplier reserves the right to charge interest at a daily rate on all sums outstanding until payment in full is received whether before or after judgment at a rate of [3]% above the base lending rate of Barclays Bank plc from time to time. The Supplier reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.5 If the Customer fails to pay any amount due under this Agreement by the relevant due date for payment, the Supplier may (in addition to any of its other rights or remedies) suspend provision of the Support Services until such time as payment is received in full and in cleared funds.
- 5.6 The Customer shall be responsible for any applicable sales, use or value added taxes arising out of or in connection with this Agreement, other than UK corporation tax arising in respect of the Supplier's income or profits. All payments due are expressed exclusive of UK Value Added Tax, which will be invoiced in addition where applicable.
- 5.7 All payments made by the Customer to the Supplier shall be made in full without set-off, deduction or counterclaim.

6 Warranty

- 6.1 The Supplier warrants that it will carry out the Support Services using reasonable care and skill.
 - 6.2 The Customer's sole remedy for any breach of the warranty contained in clause 6.1 shall be to require the Supplier to correct such failure at its own cost and expense and within a reasonable time.
 - 6.3 Notwithstanding clause 6.1, the Supplier does not:
 - 6.3.1 warrant that the operation of any part of the Software will be uninterrupted or error free; or
 - 6.3.2 give any warranty in respect of any data delivered through the Software (including but not limited to the accuracy of the data).
 - 6.4 The warranty contained in clause 6.1 is the only warranty given by the Supplier to the Customer under this Agreement. Except as expressly set out in this Agreement, all other warranties, conditions, terms and undertakings express or implied, whether by statute, common law, custom, trade usage, course of dealings or otherwise, in relation of the provision of the Support Services are excluded to the fullest extent permitted by law.
- ## **7 Limitation of liability**
- 7.1 Nothing in this Agreement shall exclude or restrict the liability of either party to the other for death or personal injury resulting from the negligent act of that party or for liability for any fraudulent misrepresentation or act.
 - 7.2 Subject to clause 7.1, the liability of the Supplier to the Customer in contract, tort or otherwise for direct loss arising out of or in connection any failure to provide the Support Services in accordance with this Agreement or otherwise in connection with this Agreement or the Customer's use of the Software or any related documentation shall be limited for any one incident or series of connected incidents to 150 % (one hundred and fifty per cent) of the annual Support Fees current at the date of the claim and paid by the Customer to the Supplier under this Agreement.
 - 7.3 Subject to clause 7.1, the Supplier shall not in any circumstances be liable to the Customer, whether in contract, tort, negligence, breach of statutory duty or otherwise, for any loss of profits, revenue, goodwill, business opportunity, loss of or cost of restoration of data or any indirect, consequential, financial or economic loss or any damage, costs or expenses whatever or however arising out of or in connection with any failure to provide the Support Services in accordance with these terms and conditions

or otherwise in connection with this Agreement or the Customer's use of the Software and any related documentation.

- 7.4 If any of the limitations on the liability of the Supplier under this Agreement are adjudged to be unreasonable in the circumstances, then the liability of the Supplier shall be limited to the amount that it can recover from its insurer for the loss in question.

8 Termination

- 8.1 Either party may terminate this Agreement on not less than 90 days' written notice to the other, such notice to expire after the Initial Term and on any anniversary of the date of this Agreement annually thereafter.

- 8.2 Either party may terminate this Agreement immediately by notice in writing to the other if the other:

8.2.1 commits a material or persistent breach of any of its obligations under this Agreement and either that breach is incapable of remedy or the other shall have failed to remedy that breach within 30 days after being given notice by the first party to do so; or

8.2.2 ceases or threatens to cease carrying on its business; suspends making payments on any of its debts or announces an intention to do so; is, or is deemed for the purposes of any law to be, unable to pay its debts [as they fall due] or insolvent; enters into or proposes any composition, assignment or arrangement with its creditors generally; takes any step or suffers any step to be taken in relation to its winding-up, dissolution, administration (whether out of court or otherwise) or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise); has a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer appointed (in each case, whether out of court or otherwise) in respect of it or any of its assets; has any security over any of its assets enforced; or any analogous procedure or step is taken in any jurisdiction.

- 8.3 The Supplier shall have the right to terminate this Agreement immediately by notice in writing to the Customer if the Customer fails to install any Upgrade supplied by the Supplier within a period of 14 days of its being supplied.

- 8.4 This Agreement shall terminate automatically upon termination, cancellation or expiry of the Customer's licence to use

the Software and in such circumstances the Customer shall not be entitled to any repayment of any part of the Support Fees.

- 8.5 Any termination of this Agreement shall be without prejudice to any other rights or remedies either party may be entitled to under this Agreement or at law.

- 8.6 Upon termination or expiry of this Agreement:

8.6.1 all amounts then owed by the Customer to the Supplier shall become immediately due and payable and the Supplier shall be entitled to retain all amounts previously paid to it under this Agreement; and

8.6.2 the Customer shall, within seven days of the termination or expiry, on the Supplier's request and at the Supplier's option either deliver up to the Supplier or destroy all copies of the Software and all documents and other materials which include the Supplier's Confidential Information in its possession.

- 8.7 Termination of this Agreement shall not affect any accrued rights or liabilities of either party.

9 Confidentiality, Data Protection and Freedom of Information

- 9.1 Neither party shall at any time after the date of this Agreement:

9.1.1 divulge or communicate to any person, company, business entity or other organisation;

9.1.2 use for its own purposes or for any purposes other than those of the other party; or

9.1.3 through any failure to exercise due care and diligence, cause any unauthorised disclosure of,

any trade secrets or Confidential Information relating to the other party, provided that these restrictions shall cease to apply to any such information that becomes available to the public generally other than through a breach of a duty of confidentiality owed to the other party and that neither party shall be restricted from disclosing the Confidential information or any part of it pursuant to a judicial or other lawful government order.

- 9.2 The parties acknowledge that the Supplier is the data processor and the Customer is the data controller (as each are defined in the DPA) in respect of any Personal Data. The Customer shall be responsible for complying with the DPA in respect of the Personal Data and shall obtain all consents and provide all notifications necessary to allow the Supplier

to provide the Support Services in compliance with the DPA.

- 9.3 The Supplier shall take appropriate technical and organisational measures against the unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, the Personal Data. The Supplier shall comply with this Agreement and any reasonable written instructions provided by the Customer to the Supplier from time to time in respect of the Personal Data.
- 9.4 If the Customer receives a request for disclosure under the Freedom of Information Act 2000 of any information provided to it by the Supplier then it shall promptly notify the Supplier and give the Supplier the opportunity to object to the disclosure. The Customer shall take into account any reasons provided by the Supplier under this clause 9.4 in deciding whether the relevant information is exempt from disclosure.

10 General

- 10.1 Neither party shall be liable for any delay in or for failure to perform its obligations under this Agreement, other than an obligation to make any payment due to the other party, if that delay or failure is caused by circumstances beyond the control of that party including, without limitation, fires, strikes, insurrection, riots, embargoes, or regulations of any civil or military authority.
- 10.2 The failure or delay of a party to exercise or enforce any right under this Agreement shall not operate as a waiver of that right or preclude the exercise or enforcement of it at any later time or times.
- 10.3 Neither party may assign or transfer all or any of its rights or obligations under this Agreement without the prior written consent of the other party.
- 10.4 No other amendment or variation of this Agreement shall be valid and binding on the parties unless it is agreed by the parties, recorded in writing as an express amendment or variation of this Agreement and signed by or on behalf of each of them.
- 10.5 This Agreement constitutes the entire understanding between the parties with respect to the subject matter of this Agreement and supersedes and replaces all prior agreements, negotiations and discussions between the parties relating to it. The Customer confirms and acknowledges that it has not been induced to enter into this Agreement by any representation, warranty, or undertaking not expressly incorporated into it. However, nothing in this Agreement purports to exclude liability for any fraudulent statement or act.
- 10.6 No person who is not a party to this Agreement shall have any right under the

Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

- 10.7 If any provision of this Agreement shall be held to be unlawful, invalid or unenforceable, in whole or in part, under any enactment or rule of law, such provision or part shall to that extent be severed from this Agreement and rendered ineffective as far as possible without modifying or affecting the legality, validity or enforceability of the remaining provisions of this Agreement which will remain in full force and effect.
- 10.8 Any notice to be given under this Agreement shall be in writing and shall be delivered by hand, sent by first class post or sent by facsimile (such notice to be confirmed by letter posted within 12 hours) to the address of the other party set out in this Agreement (or such other address as may have been notified). Any such notice or other document shall be deemed to have been served: if delivered by hand - at the time of delivery; if sent by post - upon the expiration of 48 hours after posting; and if sent by facsimile - at 9am on the next business day after the facsimile was dispatched.
- 10.9 This Agreement shall be governed by and construed in accordance with English law and each party by entering into this Agreement irrevocably submits to the non-exclusive jurisdiction of the English Courts.

Schedule

Target Response Times

Severity Level	Description	Target Response Time
1	Software is unavailable or does not operate.	2 Working Hours
2	Substantial reduced functionality or substantial degradation in the quality of service provided by the Software.	4 Working Hours
3	A minor Fault that does not affect the day to day functionality of the Software.	16 Working Hours

Escalation Points

Escalation Point	Title	Personnel Name
1	Support Manager	Dave Cook
2	Service Delivery Director	Wendy Clark
3	Managing Director	Ric Thompson