

My OnStream Terms of Service

1 Introduction

- 1.1 These Terms of Service set out the basis on which VVW My Onstream Limited or any successor organisation(s) will provide the Customer with Services.
- 1.2 VVW My Onstream Limited is a wholly owned subsidiary of Veale Wasbrough Vizards LLP.

2 Definitions and interpretation

- 2.1 In these Terms of Service the following definitions shall have the following meanings:

Agreement	the agreement between My OnStream and the Customer incorporating these Terms of Service.
Commencement Date	the date on which My OnStream acknowledges receipt of the Customer's signed Proposal.
Contract Period	the period from the Commencement Date to the date of termination during which the Services and access to the Modules will be provided by My OnStream to the Customer.
Customer Data	any data, information, or other content that may be uploaded, attached, provided or otherwise put into the Modules by or on behalf of the Customer or its Users.
Customer	the organisation named as the customer in the Proposal.
Customer Systems	any equipment, systems, cabling, communications or facilities provided by the Customer and used directly or indirectly in the supply of the Services or in respect of or in connection with the Services.
Customer Material	all documents, information and materials provided by the Customer relating to its use of the Services, including computer programs, data, reports and specifications.
Customer Support Contact	the Customer staff that are named as support contacts by the Customer to My OnStream from time to time. These shall be the only Customer staff that are permitted to raise issues or queries via the My OnStream support function. Customer Support Contacts shall have the appropriate level of knowledge and skill on the use and administration of the Modules. There is no limit to the number of support contacts that the Customer may nominate.
Data Processing Terms	the terms set out at Schedule 2 , which form part of this Agreement.
Fees	the fees described in the signature page of the Proposal.
Hours of Service	the hours during which the Modules are available for use by Users, which shall be 24 hours per day for seven days per week, except for scheduled

	system back-up or other ongoing maintenance as required and scheduled by My OnStream as set out in Schedule 1 .
Intellectual Property Rights	all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms.
Losses	all costs (including legal costs and costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and loss of opportunity to deploy resources elsewhere), damages, claims, demands, proceedings and judgments.
Modules	the modules selected by the Customer on the signature page of the Proposal (or as otherwise agreed between the parties in writing) and delivered via the internet on a "software as a service" basis.
My OnStream	VWV My OnStream Limited, a company registered in England and Wales with company number 3318383.
Proposal	the proposal document that was sent to the Customer, and that it signed and returned to My OnStream.
Service Credits	the credit that the Customer may claim from My OnStream should the availability of the Modules fail to meet the Service Levels as defined in Schedule 1 . Such credit to be calculated as the Fee paid for the use of the Modules, divided by the number of hours in a 12 month period (8,736), multiplied by the number of whole hours for which the Modules were unavailable for use by Users.
Service Failure	the failure of My OnStream to provide the Services in accordance with the Service Levels set out in Schedule 1 .
Service Levels	the service levels set out at Schedule 1 .
Services	the Modules and related services described in the Proposal.
Support Hours	9.00 am to 5.00 pm on weekdays (excluding bank holidays).
Users	the users (any person, individual or entity whose details are created, imported or otherwise entered into the Modules) licensed by My OnStream to access, use or otherwise have their details held within the Modules.

2.2 Where the words **include(s)**, **including** or **in particular** are used in these Terms of Service, they are deemed to have the words **without limitation** following them. Where the context permits, the words **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.

2.3 Any obligation on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.

3 Commencement and duration

3.1 The Agreement shall take effect on and from the date on which My OnStream acknowledges receipt of the Customer's signed Proposal and shall continue for a period of 12 months, unless otherwise terminated in accordance with this clause 3. After 12 months this Agreement will automatically renew for 12 month periods, unless either party notifies the other in writing not less than 30 days before the end of the current term.

3.2 The Customer may terminate this Agreement by giving not less than 30 days' written notice at any time. If notice is given in the first year, it will take effect on the first anniversary of the Agreement. If notice is given in a subsequent year, it will take effect at the end of the term immediately following the term in which the notice is given.

3.3 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Agreement, without liability to the other, immediately on giving notice to the other if the other commits a material breach of any of the material terms of the Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of being notified in writing of the breach.

3.4 My OnStream may terminate the Agreement, without liability to the Customer, on giving not less than four months' notice to the Customer at any time. If My OnStream terminates the Agreement under this clause 3, it will refund any money paid by the Customer in respect of the period after termination.

3.5 In the event of termination of the Agreement for any reason:

(a) the Customer's access to, and use of, the Modules shall cease immediately; and

(b) My OnStream shall deliver a copy of the Customer's Data to the Customer.

4 Services

4.1 Subject to the Customer paying the Fees, My OnStream will provide the Services for the Contract Period in accordance with the Service Levels. Any additional services shall be subject to separate agreement in writing between the Customer and My OnStream.

4.2 My OnStream grants to the Customer, and the Customer accepts, a non-transferable, non-exclusive right to access and use the Modules via the internet and use the Modules only as authorised in these Terms of Service, for its own purpose and operations, during the Contract Period. The Customer acknowledges that its access and use of the Modules will be via the internet only. No software will be provided to the Customer in any form of media or installed on any servers or other computer equipment owned or otherwise controlled by the Customer. The Modules will be accessed and used by the Customer through the use of the internet.

- 4.3 Subject to clause 5.6, the maximum number of Users that are permitted to access, use or be registered within the Modules at any given time shall not exceed the number of Users specified in the signature page of the Proposal.
- 4.4 My OnStream will perform its obligations under the Agreement in accordance with the Service Levels and with reasonable skill, care and in a suitably professional manner. Unless expressly stated otherwise any dates agreed with My OnStream for the performance of My OnStream's obligations are estimates only and shall not be of the essence of the Agreement.
- 4.5 Subject to the rest of these Terms of Service My OnStream shall use commercially reasonable endeavours to meet the Service Levels and standards specified.
- 4.6 In providing the Modules, My OnStream shall not knowingly or intentionally breach any laws applicable to the provision of the Modules, including those relating to health and safety, data protection, non-discrimination and telecommunications.

5 Charges and payment

- 5.1 The Customer shall pay Fees on a periodic basis during the Contract Period as described in the Proposal. Subject to clause 5.6 of these Terms of Service, the Fees shall be fixed for the first year. The Fees may be subject to an adjustment at the time of renewal.
- 5.2 In accordance with the Proposal, My OnStream shall invoice the Customer annually or termly in advance in respect of the Fees.
- 5.3 Any other fees relating to additional services that My OnStream may provide during any one month shall be invoiced as and when they arise, monthly in arrears.
- 5.4 All invoices shall be paid within 30 days of the invoice date unless otherwise agreed in writing.
- 5.5 For the avoidance of doubt, where the Customer does not use Modules (or Users do not use Modules) in any particular period which have already been included within the relevant Fees, no refund or credit will be given and the Customer shall not be entitled to roll over any unused Modules (or User licences) to be used in any subsequent period.
- 5.6 Subject to the Customer's first 75 Users as set out in the Proposal, if the number of Users increases by ten or more during any year, the Fee will increase (from the beginning of the next term) and My OnStream will send the Customer an invoice accordingly. If the number of Users increases by fewer than ten during any year, the Fee for that year will not increase. In any event, the number of Users will be reassessed on each anniversary of the Agreement.

6 The Customer's obligations

- 6.1 The Customer is solely responsible for acquiring, servicing, maintaining, and updating the Customer Systems, including all equipment, computers, software and communications services not owned or operated by or on behalf of My OnStream, that allow the Customer to access and use Modules, and for all expenses relating thereto (plus any applicable taxes). The Customer accepts and acknowledges that any failure to do so could lead to an interruption in access to the Modules (for which My OnStream will have no liability of any kind).

- 6.2 The Customer shall (and shall ensure that all Users shall) at all times use the Modules in accordance with any and all operating instructions or procedures that may be issued by My OnStream, and amended by My OnStream from time to time.
- 6.3 The Customer shall (and shall ensure that all Users shall) at all times comply with these Terms of Service and the Customer shall (and, where relevant, shall ensure that all Users shall):
- a) co-operate with My OnStream, and its personnel, affiliates and representatives, in all matters relating to the Agreement;
 - b) provide, in a timely manner and subject always to third party confidentiality undertakings, such Customer Material and access to all necessary and relevant information and documentation within your possession or control which is reasonably required by My OnStream, its personnel, affiliates and representatives for the provision of the Modules and ensure that it is accurate in all material respects; and
 - c) permit My OnStream to suspend or vary any Modules (or part thereof) as may be required to comply with any changes in applicable legal or regulatory requirements. Where any such suspension or variation is required as a result of the Customer's act or omission, the Customer will indemnify My OnStream in respect of any and all Losses it may incur in relation thereto.
- 6.4 If My OnStream's performance of its obligations under the Agreement is prevented or delayed by any act or omission by the Customer, the Customer's agents, subcontractors, consultants, affiliates, representatives, employees or any other third party within the Customer's reasonable control, My OnStream shall not be liable for any Losses sustained or incurred by the Customer that arise directly or indirectly from such prevention or delay and time for performance of such obligations shall be deemed extended accordingly to reflect the relevant impact on timing caused by such delay.
- 6.5 The Customer shall comply with Amazon Web Services' Acceptable Use Policy from time to time, and any other acceptable use policy of which My OnStream notifies you from time to time.

7 Intellectual property

- 7.1 Any Intellectual Property Rights owned by either party prior to the date of the Agreement shall be vested in and remain with that party.
- 7.2 The Customer acknowledges that all Intellectual Property Rights in the Modules (and in all related software) are owned by or licensed to My OnStream and that the Customer shall not acquire any equivalent or other rights in the Modules (or in any related software) except to the extent expressly granted under the Agreement.
- 7.3 Without prejudice to any rights you may have at law which cannot be excluded or restricted, the Customer undertakes that it will not (and will not permit or enable third parties to) make or distribute copies of, tamper with, remove, reproduce, modify, amend, copy, reverse assemble, reverse engineer, reverse compile or decompile, or attempt to discover the source and / or object code of any software or any part thereof which is provided to the Customer by or on behalf of My OnStream or to which the Customer otherwise has access by virtue of the provision of the Modules.

8 Confidentiality and data protection

- 8.1 Both the Customer and My OnStream shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives, and customer, personnel and / or business information which are of a confidential nature and have been disclosed by one party to the other whether these have been disclosed by or to either party's employees, agents, consultants or subcontractors and any other confidential information concerning the other party's business or its products. For the avoidance of doubt, the terms of the Agreement shall be deemed confidential to My OnStream.
- 8.2 Either party may disclose such information:
- a) to any of its personnel who need to know such information for the purposes of carrying out any obligations under the Agreement; and
 - b) as may be required by law, court order or any governmental or regulatory authority.
- 8.3 The parties shall ensure that all personnel to whom they disclose such information shall comply with this clause 8.
- 8.4 The parties shall not use any such information for any purpose other than to perform their obligations under the Agreement.
- 8.5 My OnStream shall process the Customer Data in accordance with [Schedule 2](#).
- 8.6 The Customer shall ensure that it has all necessary consents and notices in place to enable lawful transfer of Customer Data to My OnStream for the duration and purposes of the Agreement.
- 8.7 My OnStream may collect Personal Data other than the Customer Data from Customers, including personal information about the Customer's officers and employees, for the purpose of managing and promoting the Services. My OnStream is a Data Controller of such information. To read more about how we protect and use your information as a Data Controller please see our Privacy Notice at mos.vwv.co.uk.

9 Limitation of My OnStream's liability

- 9.1 This clause 9 sets out the entire financial liability of My OnStream (including any liability for the acts or omissions of its employees, agents, consultants and subcontractors) in respect of:
- a) any breach of the Agreement;
 - b) any use made by the Customer of the Modules or any part of them; and
 - c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Agreement.
- 9.2 My OnStream shall use reasonable endeavours to ensure that the Modules meet the standards of good industry practice, having regard to the nature of the Modules and the Fees paid by the Customer. My OnStream does not and cannot warrant the performance or results obtained by the Customer in using the Modules, or that the Modules will meet the Customer's requirements or that the operation of the Modules will be uninterrupted or error free.

- 9.3 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement.
- 9.4 Nothing in the Agreement limits or excludes the liability of My OnStream:
- a) for death or personal injury resulting from negligence;
 - b) for any damage or liability incurred by you as a result of fraud or fraudulent misrepresentation by My OnStream; or
 - c) for any liability incurred by the Customer as a result of any breach by My OnStream of the clause as to title or the warranty as to quiet possession implied by section 2 of the Supply of Goods and Services Act 1982.
- 9.5 Subject to clauses 9.2 and 9.4, My OnStream shall not be liable for loss of profits, loss of revenues, loss of business, loss or corruption of data, loss of operation, loss of production, loss of use of any equipment, depletion of goodwill and / or similar Losses, anticipated savings, loss of contracts or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses or any form of Losses arising out of any defect, error or fault in Customer equipment or Customer Material (other than as caused by My OnStream directly).
- 9.6 My OnStream's total aggregate liability in respect of the Modules and the Agreement shall be capped at the total charges paid to My OnStream by the Customer under the Agreement in the 12 months prior to the event that gave rise to such liability.
- ## 10 Force majeure
- 10.1 A party, provided that it has complied with the provisions of clause 10.3, shall not be in breach of the Agreement nor liable for any failure or delay in performance of any obligations under the Agreement other than in respect of payment obligations which are expressly excluded from this clause, (and, subject to clause 10.3, the time for performance of the obligations shall be extended accordingly) arising from or attributable to acts, events, omissions or accidents beyond its reasonable control (**Force Majeure Event**), including any of the following:
- a) acts of God, including fire, flood, earthquake, windstorm, snow or other extreme adverse weather conditions or natural disaster;
 - b) war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions;
 - c) terrorist attack, civil war, civil commotion or riots;
 - d) nuclear, chemical or biological contamination;
 - e) voluntary or mandatory compliance with any law (including a failure to grant any licence or consent needed or any change in the law or interpretation of the law);
 - f) interruption or failure of utility service, including electric power, gas or water, other than where caused by My OnStream or those within its control.
- 10.2 The corresponding obligations of the other party will be suspended to the same extent.

10.3 Any party that is subject to a Force Majeure Event shall not be in breach of the Agreement provided that it promptly notifies the other party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance as soon as is reasonably practicable.

11 Variation

11.1 No variation of the Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties by authorised signatories.

12 Waiver

12.1 Failure to exercise, or any delay in exercising, any right or remedy provided under the 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. No single or partial exercise of any right or remedy provided under the Agreement or by law shall preclude or restrict the further exercise of any such right or remedy.

13 Severance

13.1 If any provision of the Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision, to the extent required, shall be deemed not to form part of the Agreement and the validity and enforceability of the other provisions of the Agreement shall not be affected.

14 Entire agreement

14.1 These Terms of Service and any documents referred to in them, constitute the whole Agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter of the Agreement.

14.2 Each party acknowledges that, in entering into the Agreement, it does not rely on any statement, representation, assurance or warranty (**Representation**) of any person (whether a party to the Agreement or not) other than as expressly set out in these Terms of Service. Each party agrees that the only remedies available to it arising out of or in connection with a Representation shall be for breach of contract as expressly provided in these Terms of Service.

14.3 Nothing in this clause 14 shall limit or exclude any liability for fraud or fraudulent misrepresentation.

15 Governing law and jurisdiction

15.1 The 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 law of England and Wales.

15.2 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 the Agreement or its subject matter or formation (including non-contractual disputes or claims).

Schedule 1 Service Levels

- 1 My OnStream will make the Modules available for use by Users during the Contract Period. My OnStream will provide the Customer with secure access to the Modules via the internet for the Hours of Service.
- 2 My OnStream will use commercially reasonable endeavours to make the Modules available for 99.5% of the Hours of Service during the Contract Period.
- 3 Should the Modules be available for less than 99.5% of the Hours of Service the Customer shall be entitled to claim Service Credits from My OnStream.
- 4 For purposes of these Terms of Service, "availability" exists unless the Modules are not accessible to Users due to: (i) a hardware failure of the server(s) at the third party site where the Modules are hosted; or (ii) a connection failure between the server hosting the Modules and the closest internet router, in each case excluding during the times set aside for systems maintenance or system shutdown pursuant to paragraph 5. Software bugs, errors or other problems are not relevant to availability and are expressly excluded.
- 5 My OnStream and / or its hosting or telecommunications providers (including Simitive Limited) may perform planned system maintenance between 8.00 pm and 7.00 am GMT or at any time on Saturdays and Sundays. The Customer understands and agrees that there may be instances where My OnStream needs to interrupt access to the Modules without notice in order to protect the integrity of the Modules due to security issues, virus attacks, spam issues or other unforeseen circumstances.
- 6 Should the Customer believe that My OnStream has failed to meet the availability set forth in paragraph 2, the Customer must notify My OnStream in writing of both the date and the amount of time the Modules were unavailable within five business days following the end of the month in which unavailability occurred. My OnStream will confirm the information provided in such notice. If My OnStream cannot confirm the time that the Modules were unavailable, then the Customer and My OnStream agree to refer the matter to executives at each organisation for resolution. Should My OnStream agree that the availability service level was breached, the Customer will receive the Service Credits for the affected period. Service Credits shall be the sole and exclusive remedy to the Customer for any unavailability. Except as expressly set forth in these Terms of Service, any remedy the Customer may receive pursuant to this Schedule 1 does not relieve the Customer, or allow a set-off, of any other payment obligations to My OnStream under the Agreement.
- 7 My OnStream will not systematically monitor Customer Data, but My OnStream reserves the right to: (a) disable access to or delete any Customer Data which My OnStream determines in its sole discretion (such discretion to be exercised in good faith) to be illegal, obscene, threatening, defamatory, fraudulent, infringing, harassing, or otherwise offensive; and (b) disable access to or delete any other Customer Data under circumstances requiring urgent action, as such circumstances are determined in good faith by My OnStream.
- 8 My OnStream will provide online, telephone and email support to the Customer during the Support Hours during the Contract Period.
- 9 The Customer acknowledges and accepts that, due to the nature of technology and software, My OnStream cannot guarantee to resolve any issue that may arise. However, subject to the other provisions of these Terms of Service, where any issue arises in respect of which the Modules are being or are to be provided and which either My OnStream

becomes aware of or which is notified to My OnStream by the Customer in writing, My OnStream will use reasonable endeavours to respond and resolve the issue as swiftly as is reasonably practicable and in accordance with the following response times:

Severity Level	Description (Problem)	Scheduled hours	Target response time
1	<p>Critical System Problem.</p> <p>Production environment is inoperative and the Customer's business is being impacted. No system workaround exists and use of functionality is materially compromised.</p>	Support Hours	60 minutes from when My OnStream receives notification of the Problem.
2	<p>Time Critical System Problem.</p> <p>Production environment for the system is adversely affected. Productivity for the Customer is compromised; work can be done by the Customer but not at full capacity.</p>	Support Hours	By 10.00 am GMT the next business day from when My OnStream receives notification of the Problem.
3	<p>Non-Time Critical System Problem.</p> <p>Production environment for the system has encountered a non-critical problem or defect and / or questions have arisen on the use of the system.</p>	Support Hours	Acknowledgment within 24 Support Hours from when My OnStream receives notification of the Problem. A process will be agreed with the Customer to remedy any Level 3 Problem at the appropriate time.
4	<p>Non-Time Critical System Problem.</p> <p>Low priority request with no system impact, low priority bugs. All other requests such as enhancements, feature request would go through a process that will be agreed with the Customer at the appropriate time.</p>	Support Hours	Acknowledgment within 48 Support Hours from when My OnStream receives notification of the Problem. A process will be agreed with the Customer to remedy any Level 4 Problem at the appropriate time.

- 10 The relevant time for responding to an issue as categorised above shall be measured from the time the issue is notified to My OnStream in writing by the Customer Support Contact with sufficient detail to enable My OnStream to categorise the issue in accordance with the foregoing or when My OnStream was otherwise aware of the same. To the extent that the Customer notifies My OnStream of any issue in accordance with the foregoing outside of Support Hours, such notification shall be deemed to have been received at the beginning of the first Support Hour subsequent to such notification. To the extent that the response time would exceed the contracted support time then the measure of the response time shall stop at the end of the contracted support time and recommence at the start of the next period of contracted support time.

- 11 Without prejudice to any other provisions of these Terms of Service, My OnStream shall not have any liability in respect of any Service Failure where it is due to any one or more of the following:
- a) any matter beyond the reasonable control of My OnStream and / or where My OnStream is entitled to relief pursuant to clause 10;
 - b) failure of all or any part of the Customer Systems (other than as caused by a breach of these Terms of Service by My OnStream or those within its direct control); or
 - c) where My OnStream has suspended access to the Modules in accordance with these Terms of Service.
- 12 If you have any questions regarding the Services, or ideas for future modules, please email sthorpe@vww.co.uk or call 0117 314 5218 at any time between 9.00 am and 5.00 pm on weekdays (excluding bank holidays). If any problems arise with the Services we will use our reasonable endeavours to resolve them swiftly and collaboratively.

Schedule 2 VVV My OnStream Limited Data Processing Terms

The following definitions shall apply in these Terms:

Client: means the Customer as identified in the My OnStream Terms of Service;

Data Breach: means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data;

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

Data Processor: means a natural or legal person, public authority, agency or other body which processes Personal Data on behalf of the Data Controller;

Data Protection Laws: the General Data Protection Regulation EU 2016/679 (**GDPR**) and any applicable national laws or regulations which implement, amend, extend, re-enact, or consolidate GDPR or any applicable successor data protection regime to that governed by GDPR;

Data Subject: means an identified or identifiable natural person about whom Personal Data is processed; an identifiable natural person is one who can be identified, directly or indirectly, by reference to the Personal Data;

Personal Data: means information relating to a Data Subject such as a name, an identification number, location data, online identifier or one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person, including opinions about a Data Subject;

Processing: means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;

Protected Data: means any Customer Data (as defined in these Terms) and any Personal Data received by My OnStream from or on behalf of the Client in connection with the performance of My OnStream's obligations as a Data Processor under the agreement between My OnStream and the Client; and

Sub-Processor: means any agent, subcontractor or other third party (excluding its employees) engaged by My OnStream for carrying out any Processing activities on behalf of the Client in respect of the Protected Data.

1 Compliance with Data Protection Laws

- 1.1 The parties agree that the Client is the Controller and My OnStream is a Processor for the purposes of Processing Protected Data.
- 1.2 Both parties shall at all times comply with all Data Protection Laws in connection with the Processing of Protected Data.

- 1.3 The Client shall ensure all instructions given by it to My OnStream in respect of Protected Data shall at all times be in accordance with Data Protection Laws.
- 1.4 My OnStream shall process Protected Data in compliance with the obligations placed on it under Data Protection Laws and these Terms.
- 1.5 The Client shall indemnify and keep indemnified My OnStream against all losses, claims, damages, liabilities, fines, sanctions, interest, penalties, costs, charges, expenses, compensation paid to Data Subjects, demands and legal and other professional costs (calculated on a full indemnity basis and in each case whether or not arising from any investigation by, or imposed by, a supervisory authority) arising out of or in connection with any breach by the Client of its obligations under these Terms.

2 Instructions

- 2.1 My OnStream shall:
 - (a) only process (and shall ensure its employees, agents and subcontractor only process) the Protected Data in accordance with these Terms including [Appendix 1](#) (and not otherwise unless alternative Processing instructions are agreed between the parties in writing) except where otherwise required by applicable law (and shall inform the Client of that legal requirement before Processing, unless applicable law prevents it doing so on important grounds of public interest); and
 - (b) without prejudice to clause [2.1](#), if My OnStream believes that any instruction received by it from the Client is likely to infringe the Data Protection Laws it shall promptly inform the Client and be entitled to cease to provide the relevant Services until the parties have agreed appropriate amended instructions which are not infringing.

3 Security

- 3.1 In accordance with the Data Protection Laws, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the Processing of the Protected Data, as well as the risks of varying likelihood and severity for the rights and freedoms of natural persons and the risks that are presented by the Processing, especially from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Protected Data transmitted, stored or otherwise processed, My OnStream shall implement appropriate technical and organisational security measures appropriate to the risk, including as appropriate those matters mentioned in Articles 32(a) to 32(d) (inclusive) of the GDPR and any special Processing requirements set out [Appendix 1](#).

4 Sub-processing and personnel

- 4.1 Subject to clause [4.2](#), My OnStream shall not permit any Processing of Protected Data by any agent, subcontractor or other third party (except its or its Sub-Processors' own employees in the course of their employment that are subject to an enforceable obligation of confidence with regards to the Protected Data) without the written authorisation of the Client.

- 4.2 My OnStream may appoint a Sub-Processor, subject to the following:
- (a) prior to the relevant Sub-Processor carrying out any Processing activities in respect of the Protected Data, My OnStream shall enter a written contract with the Sub-Processor that is enforceable by My OnStream containing materially the same obligations as under these Terms and ensure each such Sub-Processor complies with all such obligations;
 - (b) My OnStream shall remain fully liable to the Client for all the acts and omissions of each Sub-Processor in respect of the Protected Data as if they were its own; and
 - (c) My OnStream shall ensure that all persons authorised by My OnStream or any Sub-Processor to process Protected Data are subject to a binding written contractual obligation to keep the Protected Data confidential.
- 4.3 My OnStream has appointed Simitive Limited as a Sub-Processor.

5 Assistance

- 5.1 My OnStream shall (at the Client's cost):
- (a) assist the Client in ensuring compliance with the Client's obligations pursuant to Articles 32 to 36 of the GDPR (and any similar obligations under applicable Data Protection Laws) taking into account the nature of the Processing and the information available to My OnStream; and
 - (b) taking into account the nature of the Processing, assist the Client (by appropriate technical and organisational measures), insofar as this is possible, for the fulfilment of the Client's obligations to respond to requests for exercising the Data Subjects' rights under Chapter III of the GDPR (and any similar obligations under applicable Data Protection Laws) in respect of any Protected Data.

6 International transfers

- 6.1 Subject to clause 6.2, My OnStream shall not process and / or transfer, or otherwise directly or indirectly disclose, any Protected Data in or to countries outside the European Economic Area (EEA) or to any international organisation without the prior written consent of the Client.
- 6.2 The Client authorises the permitted transfers listed in [Appendix 1](#).

7 Audits and Processing

- 7.1 My OnStream shall, in accordance with Data Protection Laws, make available to the Client such information that is in its possession or control as is necessary to demonstrate My OnStream's compliance with the obligations placed on it under these Data Processing Terms and to demonstrate compliance with the obligations on each party imposed by Article 28 of the GDPR (and under any equivalent Data Protection Laws equivalent to that Article 28), and allow for and contribute to audits, including inspections, by the Client (or another auditor mandated by the Client) for this purpose at reasonable times and on reasonable notice (subject to a maximum of one audit request in any 12 month period under this clause 7.1).

8 Breach

8.1 My OnStream shall notify the Client without undue delay on becoming aware of any Personal Data Breach in respect of any Protected Data.

9 Deletion / return

9.1 On the end of the provision of the Services relating to the Processing of Protected Data, at the Client's cost and the Client's option, My OnStream shall either return all of the Protected Data to the Client or securely dispose of the Protected Data (and thereafter promptly delete all existing copies of it) except to the extent that any applicable law requires My OnStream to store such Protected Data.

Appendix 1

1 Subject-matter and duration of Processing:

The Processing relates to the provision of the My OnStream services to the Client. The Processing will last for the duration of the Services, and for a short time afterwards to allow Personal Data to be deleted or returned to the Client.

2 Nature and purpose of the Processing:

The nature of the Processing concerns uploading information relating to the Client's staff. Staff will then interact with the system. For example, they will take part in online training and online tests.

The purpose of the Processing is to assist the Client to comply with its legal and regulatory obligations.

3 Type of Personal Data and categories of Data Subject:

Types of Personal Data are information about the Client's staff, such as their name, job title, department etc.

The My OnStream Services may be used to process special categories of Personal Data which the Client is required to process in accordance with their statutory duties. For example, the SCR Plus module allows the Client to store information about the results of Disclosure and Barring Service (**DBS**) disclosures which could include Personal Data concerning criminal convictions.

The categories of Data Subject are staff and other representatives of the Client, such as school governors.