

STANDARD TERMS & CONDITIONS OF THE C365CLOUD SUBSCRIPTION AGREEMENT

The “Licensor” of the software is Energy and Compliance Technology Limited (Trading as C365Cloud), a company incorporated in England and Wales (registration number 07311760) having its registered office at 6 Mariner Court, Calder Park, Wakefield, West Yorkshire, WF4 3FL

For the purpose of these terms and conditions the customer utilising the system is the “Licensee”.

1. Definitions and Interpretation

- (a) C365Cloud is defined for the purposes of this document as the System and or the Software
- (b) Minimum Term is defined as 36 months.

2. Term

This Agreement will come into force on the Effective Date and will continue in force for a period of 36 months, upon which it will automatically renew for a period of 12 months, unless terminated earlier in accordance with Clause 8.

3. Delivery of Software

- 3.1 The Licensor will activate the Software for the Licensee within 30 Business Days following the Effective Date.
- 3.2 For the avoidance of doubt, nothing in this Agreement requires the Licensor to deliver to the Licensee any copies of the source code of the Software, and nothing in this Agreement constitutes a licence to use the source code of the Software.

4. Invoicing and payment

- 4.1 The Licensor will issue invoices for the Charges to the Licensee on or after the Effective date.
- 4.2 The Licensee will pay the Charges to the Licensor within 30 days of the date of issue of an invoice issued
- 4.3 The Licensee will pay the Charges annually in advance
- 4.4 All Charges stated in or in relation to this Agreement are stated exclusive of VAT, unless the context requires otherwise.
- 4.5 All charges are detailed in the licensors’ “Sales Quotation.”

5. Licence

- 5.1 Subject to the limitations set out in Clause 5.2 and the prohibitions set out in Clause 5.3, the Licensor hereby grants to the Licensee from the date of delivery of the Software to the Licensee a non-exclusive, royalty-free, licence to:
 - (a) Activate the Software;
 - (b) Use the Software in accordance with its documentation
 - (c) Disseminate logon information to any required third parties
 - (d) Use any third-party software in conjunction with the System or the Software.
- 5.2 Save to the extent that the Licensor has given its express written consent, the licence granted by the Licensor to the Licensee under Clause 5.1 is subject to the following limitations:
 - (a) the Software license may only be used for the subscribed compliance modules
 - (b) To a maximum of number of Properties subscribed to
- 5.3 Except to the extent mandated by applicable law or expressly permitted in this Agreement, the licences granted by the Licensor to the Licensee under this Clause 5 are subject to the following prohibitions unless written exemption is granted by the Licensor:
 - (a) the Licensee must not sub-license the Software;
 - (b) the Licensee must not sell, resell, rent, lease, supply, publish or distribute the Software;
 - (c) the Licensee must not alter or adapt or edit the Software;
 - (d) the Licensee is responsible for the provision of all hardware internet browsers.
 - (e) the Licensee must not disseminate log on information to any required third parties
- 5.4 The Licensor (or the Licensor's appointed representative) may (on reasonable notice) audit the Licensee’s computer system for the purpose of ascertaining whether the Licensee is complying with the terms of the licences set out in this Agreement. Such an audit shall be limited to those systems (C365Cloud) that are reasonably likely to provide evidence of compliance or non-compliance. The Licensee shall provide to the Licensor all reasonable co-operation in relation to the audit. This Clause 5.4 shall survive the termination of this Agreement and shall continue for a period of 12 months following the date of effective termination.

6. Warranties

- 6.1 The Licensee warrants to the Licensor that it has the legal right and authority to enter into and perform its obligations under this Agreement.
- 6.2 The Licensor warrants to the Licensee:
 - (a) that it has the legal right and authority to enter into and perform its obligations under this Agreement;
 - (b) that the Software supplied by the Licensor will at the date of delivery perform substantially in accordance with the documentation accompanying the Software.

7. Indemnities and Limitations/exclusions of liability

- 7.1 The Licensor excludes any Liability relating to the Licensees Hardware, Network connectivity, Browser specification and content filtering.
- 7.2 The Licensor will indemnify and keep indemnified the Licensee against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever to the extent that any such loss or claim is due to the breach of any third-party intellectual property.
- 7.3 Notwithstanding any other provision in this Agreement, the Licensor's liability to the Licensee for death or injury resulting from its own negligence or that of its employees, agents or sub-contractors shall not be limited.

8. Termination

The Licensee may request termination of the agreement subject to the terms below and of clause 9:

- (a) Completion of the initial contract term of 36 months
- (b) Every 12 months following completion of the initial contract term.
- (c) If, following 3 escalations to the Licensor's Senior Management Team and attempts on both sides to resolve performance issues the Licensee can terminate the agreement at no additional charge.

9. Notice Period

The Licensee must give the Licensor a minimum of three months' notice of termination of the Agreement.

10. Effects of termination and termination assistance

- 10.1 Upon termination of the Agreement the Licensor will return to the Licensee all data / compliance data stored on the system. The Licensor will return data to the Licensee in either Microsoft Excel (tabular data) or Adobe PDF (document data).
- 10.2 Any specific data set requirements requested by the Licensee will be chargeable at the agreed rate.
- 10.3 Termination assistance will be given to the Licensee for a maximum of 90 days following the expiration or termination of the Agreement (Termination Assistance Period).
- 10.4 Termination assistance includes but is not limited to the Licensor performing the following activities:
 - 10.4.1 returning to the Licensee (or, at the Licensee's discretion, destroying) the Licensee's data and the Confidential Information of the Licensee.
 - 10.4.2 answering all reasonable questions from the Licensee in a timely manner to enable migration or smooth transition of the Licensee's data from the System to an alternative system;
 - 10.4.3 if and to the extent the Licensor has provided any Services on site at the Licensee's premises, vacating the Licensee's premises at the end of the Termination Assistance Period (or promptly upon request if earlier) and indemnifying the Licensee for any costs reasonably incurred in restoring the Licensee's premises to the state and condition in which they were prior to their occupation by the Licensor except to the extent of normal wear and tear.
 - 10.4.4 C365 Cloud reserve the right to charge for the administration associated with data migration and support during the Termination Assistance Period.
- 10.5 Any potential charges must be agreed in writing by the Licensee prior to works taking place.

11. GDPR

- 11.1 The Licensor shall and shall procure that any of its staff and agents shall comply with their obligations under the General Data Protection Regulation (EU) 2016/679 ("GDPR") and the Data Protection Act 2018 ("DPA 2018") (together defined as "DPL").
- 11.2 The Licensee is and will remain the Data Controller (as defined in the DPL) in relation to the personal information processed under this Agreement, and the Licensor will act as Data Processor (as defined in the DPL) with respect to such personal information. As such, the Licensor must follow the direction of the Licensee as to how Personal Data (as defined in the DPL) is processed.
- 11.3 All Personal Data acquired by the Licensor from the Licensee shall only be used for the purposes of this Agreement and shall not be further processed or disclosed without the prior written consent of the Licensee.
- 11.4 The Licensor shall be responsible for taking regular back-ups of data processed and retained on the Software.
- 11.5 The Licensor has in place critical business systems to limit damage to or loss of data (as set out in Schedule 2).
- 11.6 The Licensor shall assist the Licensee in safeguarding the legal rights of the Data Subject (as defined in the DPL).
- 11.7 The Licensor shall return to the Licensee or securely destroy all Personal Data within 14 days of the expiry or termination of the Agreement.
- 11.8 The Licensor agrees to fully indemnify and keep indemnified and defend at its own expense the Licensee against all costs, claims, damages or expenses incurred as a result of the failure of the Licensor or its employees, agents or sub-contractors to comply with their obligations under this clause 11.
- 11.9 The provisions of this clause shall continue to apply indefinitely after the expiry or termination of this Agreement.

12. Law and Jurisdiction

This Agreement and any issues, disputes or claims arising out of or in connection with it shall be governed by and construed in accordance with the laws of England and Wales and shall be subject to the exclusive jurisdiction of the courts of England and Wales.