

ALTO

TERMS AND CONDITIONS

THE CLIENT'S ATTENTION IS PARTICULARLY DRAWN TO CLAUSE 14 (LIMITATION OF LIABILITY)

1. Definitions and interpretation

The following definitions and rules of interpretation apply in this Agreement:

1.1 Definitions:

"Affiliate" means, in relation to a company, any Subsidiary or Holding Company of that company, and any Subsidiary of a Holding Company of that company, in each case from time to time;

"Alto" means the Provider's proprietary hosted software solution known as "Alto" from time to time;

"Application" means Alto, which is developed and owned by the Provider and provided as part of the Services or Trial Services, in each case as set out in the Order;

"Authorised Users" means those employees, agents and independent contractors authorised by the Client to use the Services, as further described in Clause 3.2;

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

"Business Hours" means 9:00am to 5:30pm (UK time) on a Business Day;

"Client" means the person or firm who purchases Services from the Provider;

"Client Data" means any data inputted into the Application by the Client or an Authorised User or by the Provider on behalf of the Client, including any E-Signature Documents (if applicable);

"Client Default" is defined in Clause 11.2;

"Client Personal Data" is defined in Clause 7.4;

"Commencement Date" is defined in Clause 2.2;

"Conditions" means these terms and conditions, as amended from time to time in accordance with Clause 15.6;

"Contract" means the contract between the Client and the Provider for the supply of Services in accordance with these Conditions;

"Custom Development" means any Update or New Release commissioned from the Provider by or on behalf of the Client;

"Data Controller" is defined in the Data Protection Legislation;

"Data Feed Fees" means the fees payable by the Client to the Provider for the Data Feed Services, as set out on the relevant Order;

"Data Feed Services" means the data feed services described in Schedule 3, to be provided by the Provider to the Client as set out in the relevant Order;

“**Data Processor**” is defined in the Data Protection Legislation;

“**Data Protection Legislation**” means before 25 May 2018, the Data Protection Act 1998 and, from 25 May 2018 onwards, the GDPR;

“**Data Subject**” is defined in the GDPR;

“**Data Subject Rights**” means the rights of Data Subjects as set out in Chapter III of the GDPR;

“**Documentation**” means any operating manuals, user instructions, technical literature, online help and all other documentation and materials supplied by the Provider to the Client in connection with the Services;

“**Downtime**” means any time during which the Services are unavailable to the Client;

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

“**E-Signature Document**” is defined in Schedule 6;

“**E-Signature Services**” means the e-signature service described in Schedule 6 provided by the Provider to the Client, as set out in the relevant Order;

“**Files**” means electronic files containing the property information designated by the Provider (which, as of the date of the Contract, comprises the information set out in Schedule 4) and which are made available to the Provider by the Client in connection with the Data Feed Service;

“**GDPR**” means the EU General Data Protection Regulation (Regulation (EU) 2016/679), and any successor legislation enacted in the United Kingdom following the United Kingdom’s withdrawal from the European Union;

“**Geo Data Terms**” means the end user licence terms for UK geographic data set out in Schedule 5, as may be updated from time to time;

“**Go Live Date**” means, with respect to each Application: (i) the date on which the Client first gains access to that Application; or (ii) three months after the date on which the Client pays the relevant deposit, whichever is earlier;

“**Google Terms**” means (i) the Google Maps / Google Earth Additional Terms of Service currently available at https://maps.google.com/help/terms_maps.html; (ii) the Google Privacy Policy currently available at <https://policies.google.com/privacy?hl=en-GB&gl=uk>; and (iii) the Google EU End User Consent Policy currently available at <https://www.google.com/about/company/user-consent-policy.html>;

“**Holding Company**” is defined in Section 1159(1) of the Companies Act 2006;

“**Indemnified Party**” is defined in Clause 9.5;

“**Indemnifying Party**” is defined in Clause 9.5(a);

“**Indemnity Claim**” is defined in Clause 9.5;

“**Initial Subscription Term**” is defined in Clause 13.1;

“**Intellectual Property Rights**” means all intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals and extensions of, and rights to claim priority from, such rights and all similar forms of protection in any part of the world;

“**New Release**” means any new release of an Application which from time to time is publicly marketed and offered for subscription by the Supplier in the course of its normal business, being a release, which contains such significant differences from the previous releases as to be generally accepted in the marketplace as constituting a new version of the Application;
“**Order**” means the Client’s order for Services as set out in the Client’s order form;

“**PAF End User Terms**” means the end user licence terms for the Royal Mail’s Postal Address File service currently available at https://s3-eu-west-1.amazonaws.com/files.propertysoftwaregroup.com/documents/product/royalmail/2015_Schedule_1.pdf, as may be updated from time to time;

“**Personal Data**” is defined in the Data Protection Legislation;

“**Personal Data Breach**” is defined in the GDPR;

“**Portals**” means the online property portals in respect of which the Client may request copies of property listing details to be made available in Files;

“**Provider**” means Property Software Holdings Limited, a company registered in England and Wales with registered number 08800101 and with its registered office at The Cooperage, 5 Copper Row, London SE1 2LH;

“**Provider IP Claim**” is defined in Clause 9.1;

“**Provider Website**” means any website operated by the Provider or any of its Affiliates;

“**Renewal Term**” is defined in Clause 13.1;

“**Service Fees**” means the fees payable by the Client to the Provider in respect of the Services, as set out in the relevant Order, or as otherwise notified to the Client by the Provider;

“**Services**” means the services provided by the Provider to the Client under the Contract (including, if applicable, the Data Feed Services, the SMS Services, the E-Signature Services and/or the Support Services), each as set out in the relevant Order and Documentation;

“**SMS Fees**” means the fees payable by the Client to the Provider in respect of the SMS Services, as set out in the relevant Order;

“**SMS Services**” means the SMS service described in Schedule 2 provided by the Provider to the Client, as set out in the relevant Order;

“**Sub-Processor**” is defined in Clause 7.5(d);

“**Subscription Term**” means the Initial Subscription Term and any Renewal Term;

“**Surviving Provisions**” means Clauses 1, 2, 7, 8, 9, 10.2, 12.3, 13, 14, 15, and (to the extent applicable to the relevant Service) Paragraph 6 of Schedule 2, Paragraph 6 of Schedule 3 and Paragraph 2 of Schedule 6;

“**Support Services**” means the support services described in Schedule 1;

“**Third Party Licences**” means the PAF End User Terms, Geo Data Terms, Google Terms and such other licences as the Provider may notify to the Client from time to time;

“**Trial Period**” is defined in Clause 6.1;

“**Trial Services**” means any services similar to all or part of the Services provided by the Provider to the Client on a trial basis;

“**Update**” means a release of an Application that corrects faults, adds functionality or otherwise amends or upgrades the Application, but which does not constitute a New Release (and “**Updated**” shall be construed accordingly);

“**User Subscriptions**” means the user subscriptions purchased by the Client which entitle Authorised Users to access and use the Services and the Documentation in accordance with the Contract;

“**VAT**” means value added tax or any equivalent tax chargeable in the UK or elsewhere; and

“**Virus**” means any thing or device (including any software, code, file or programme) which may: (i) prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; (ii) prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or (iii) adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

1.2 Interpretation:

- (a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- (b) Any words following the terms “**including**”, “**include**”, “**in particular**”, “**for example**” or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (c) A reference to “**writing**” or “**written**” includes fax but not email.

2. Basis of contract

2.1 The Order constitutes an offer by the Client to purchase Services in accordance with the terms of these Conditions.

2.2 The Order shall only be deemed to be accepted:

- (a) when the Provider issues written acceptance of the Order; or
- (b) on the relevant Go Live Date, at which point and on which date, the Contract shall come into existence (the “**Commencement Date**”).

2.3 Any samples, drawings, descriptive matter or advertising issued by the Provider, and any descriptions or illustrations contained in the Provider’s catalogues or brochures, are issued for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

3. User Subscriptions

3.1 The Provider hereby grants to the Client a non-exclusive, non-transferable right, without the right to grant sub-licences, to permit the Authorised Users to access and use the Services and the Documentation during the Subscription Term solely for the Client's internal business operations.

3.2 In relation to the Authorised Users, the Client undertakes that:

- (a) the maximum number of Authorised Users that it authorises to access and use the Services and the Documentation shall not exceed the number of User Subscriptions it has purchased from time to time;

- (b) it will not allow any User Subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services or Documentation;
- (c) each Authorised User shall keep a secure password for his use of the Services and Documentation, that such password shall be changed no less frequently than monthly and that each Authorised User shall keep his password confidential;
- (d) it shall maintain a written, up to date list of current Authorised Users and provide such list to the Provider within five Business Days of the Provider's written request at any time;
- (e) it shall permit the Provider to audit the Services to establish the name and password of each Authorised User. The Provider may conduct no more than one audit per quarter, at its own expense, with reasonable prior notice, and in such a manner as not to interfere substantially with the Client's normal conduct of business;
- (f) if any of the audits referred to in Clause 3.2(e) reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to the Provider's other rights, the Client shall promptly disable such passwords and the Provider shall not issue any new passwords to the relevant individual; and
- (g) if any of the audits referred to in Clause 3.2(e) reveal that the Client has underpaid Service Fees to the Provider, then without prejudice to the Provider's other rights, the Client shall pay to the Provider an amount equal to such underpayment within 10 Business Days of the date of the relevant audit.

3.3 The Client shall not access, store, distribute or transmit any Viruses, or any material during its use of the Services that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;
- (d) promotes unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (f) is otherwise illegal or causes damage or injury to any person or property, and the Provider reserves the right, without liability to the Client or prejudice to its other rights, to disable the Client's access to any material that breaches the provisions of this Clause 3.3.

3.4 The Client shall not:

- (a) except as permitted by law or as necessary to access and use the Services in accordance with the Contract:
 - (i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Application or Documentation (as applicable) in any form or media or by any means; or
 - (ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Application; or
- (b) access all or any part of the Services and Documentation to build a product or service which competes with the Services or the Documentation; or

- (c) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services or Documentation available to any third party except the Authorised Users; or
- (d) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this Clause 3

3.5 The Client shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and the Documentation and, in the event of any unauthorised access or use, promptly notify the Provider.

4. Additional User Subscriptions

- 4.1 During any Subscription Term, the Client may purchase additional User Subscriptions in accordance with Clause 4.2 and Clause 4.3.
- 4.2 If the Client wishes to purchase additional User Subscriptions, the Client shall notify the Provider in writing. The Provider shall respond to the Client with approval or rejection of the request. If the Provider approves the request, the Provider shall activate the additional User Subscriptions within 30 days of its approval of the Client's request.
- 4.3 If the Provider approves the Client's request to purchase additional User Subscriptions, the Client shall, within 30 days of the date of the Provider's invoice, pay to the Provider the relevant Service Fees for such additional User Subscriptions and, if such additional User Subscriptions are purchased by the Client part way through the Initial Subscription Term or any Renewal Term (as applicable), such Service Fees shall be pro-rated from the date of activation by the Provider for the remainder of the Initial Subscription Term or then current Renewal term (as applicable).
- 4.4 During the Initial Subscription Term, the number of User Subscriptions may be increased in accordance with this Clause 4, but may not be reduced.

5. Supply of Services

- 5.1 During the Subscription Term, the Provider shall use commercially reasonable endeavours to make the Services and Documentation available 24 hours a day, seven days a week, but the Client acknowledges that there may be Downtime for:
 - (a) planned maintenance; or
 - (b) unscheduled maintenance; or
 - (c) circumstances outside of the Provider's reasonable control, provided in each case that the Provider shall use commercially reasonable endeavours to give the Client notice of any Downtime in advance and to remedy any Downtime as soon as reasonably practicable.
- 5.2 The Services do not include any New Releases or Custom Developments.

6. Trial

- 6.1 If the Provider agrees to provide Trial Services to the Client, the trial period will run from the commencement of the Trial Services until the earlier of:
 - (a) the expiry of the trial period notified to the Client by the Provider; and
 - (b) the Go Live Date of any related Services, (the "Trial Period").

- 6.2 The Provider provides the Trial Services to the Client on an “as is” basis and all warranties and representations (whether express or implied), including as to the quality, accuracy, completeness or fitness for purpose of the Trial Services are, to the fullest extent permitted by law, excluded.
- 6.3 On expiry of the Trial Period, the Provider may delete any Client Data entered by the Client into any Trial Services, unless the Client purchases a subscription to the Services before expiry or termination of the Trial Period.

7. Client Data

- 7.1 The Client shall own all Intellectual Property Rights in the Client Data and is solely responsible for the legality, reliability, integrity, accuracy and quality of the Client Data.
- 7.2 The Provider shall follow its archiving procedures for Client Data, as such procedures may be amended by the Provider in its sole discretion from time to time. In the event of any loss or damage to Client Data, the Client's sole and exclusive remedy shall be for the Provider to use reasonable commercial endeavours to restore the lost or damaged Client Data from the latest copy of such Client Data maintained by the Provider. The Provider shall not be responsible for any loss, destruction, alteration or disclosure of Client Data caused by any third party (except those third parties sub-contracted by the Provider to perform services related to Client Data maintenance and back-up).
- 7.3 If the Client is a franchisee, the Client agrees that the Provider may provide the Client’s franchisor with access to and copies of the Client Data.
- 7.4 The Provider and the Client acknowledge that for the purposes of the Data Protection Legislation, the Client is the Data Controller and the Provider is the Data Processor of any Personal Data that Client provides to the Provider under the Contract (“**Client Personal Data**”). The categories of Client Personal Data to be processed by the Provider and the processing activities to be performed under the Contract are:

Subject matter	Provision by the Provider and use by the Client of Services (including the Applications).
Duration	Subscription Term
Nature and purpose	The Provider processes the Client Personal Data for the purpose of providing the Services to the Client. The Services comprise providing hosted Applications for use by the Client’s Authorised Users. The Applications are software applications that enable estate agents and letting agents to market properties (including by hosting a diary function with details of actual or prospective purchasers or tenants), manage communications with clients (property vendors or landlords), generate practice management reports and, in the case of PropertyFile, provide a platform for vendors, landlords, purchasers and tenants to view information relating to properties.
Data categories	Name, address, contact number, email, search preferences (type of property sought), financial position (house to sell, need a mortgage, etc.), bank details (landlords), IP address for anyone submitting an electronic signature through PropertyFile, mortgage provider, scans of ID documents (for anti-money laundering purposes), electronic copies of signed documents such as tenancy agreements, emails between agents and parties.
Data subjects	Current, prospective and former customers of the Client; current, prospective and former purchasers or tenants of properties listed or managed by the Client; employees and contractors of the Client

7.5 The Provider agrees:

- (a) to process the Client Personal Data only in accordance with the Client’s written instructions, unless required to do otherwise by EU or UK law, in which case the Provider shall inform the Client of that legal requirement (unless prohibited from doing so by law);

- (b) to ensure that all its staff involved in processing the Client Personal Data are under appropriate contractual or statutory duties of confidentiality;
- (c) to implement appropriate technical and organisational measures to ensure a level of security for the Client Personal Data appropriate to the risks associated with the Provider's processing of the Client Personal Data;
- (d) not to engage another processor ("**Sub-Processor**") of the Client Personal Data without the Client's prior written approval and to ensure that any Sub-Processor is bound by obligations the same as those in this Clause 7.5 with respect to the Client Personal Data;
- (e) to assist the Client by appropriate technical and organisational measures to enable the Client to respond to requests from Data Subjects exercising their Data Subject Rights;
- (f) to provide the Client with reasonable assistance in ensuring compliance with the Client's obligations under Articles 32 to 36 (inclusive) of the GDPR;
- (g) on termination or expiry of the Subscription Term, to delete or return (at the Client's option) all existing copies of the Client Personal Data in its control or possession, unless retention is required by UK or EU law;
- (h) to report any Personal Data Breach relating to the Client Personal Data to the Client without undue delay;
- (i) to make available to the Client all information in its possession or control that is necessary to demonstrate the Provider's compliance with its obligations under this Clause 7.5; and
- (j) to allow the Client, on reasonable prior written notice and during Business Hours, reasonable access to the Provider's premises, records, staff and systems (and reasonable related assistance) to enable the Client to verify the Provider's compliance with its obligations under this Clause 7.5.

7.6 With respect to a request or audit under Clause 7.5(i) or Clause 7.5(j) (as applicable), the Provider shall inform the Client immediately if, in its opinion, the Client's instruction infringes the GDPR or another applicable UK or EU data protection law.

8. Intellectual Property Rights

- 8.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Client), including the Applications and the Documentation, shall be owned by the Provider or its licensors (as applicable).
- 8.2 Subject to the Client's payment of the Service Fees, the Provider grants to the Client a worldwide, non-exclusive, royalty free, non-transferable, non-sublicensable licence during the Subscription Term to use the Intellectual Property Rights owned by the Provider solely to the extent necessary to receive and use the Services.
- 8.3 The Client grants to the Provider a worldwide, non-exclusive, royalty-free, transferable, sub-licensable licence to copy and modify and materials provided by the Client to the Provider for the Subscription Term for the purpose of providing the Services to the Client and analysing the Client's use of the Services to improve, and report on the Client's use of, the Services.

9. Indemnities

- 9.1 If the Client complies with Clause 9.5, the Provider shall indemnify the Client against all losses and expenses incurred by the Client arising out of or in connection with any claim brought by a third party against the Client alleging that the Client's use of the Applications in accordance with the Contract infringes that third party's Intellectual Property Rights (a "**Provider IP Claim**"), provided that the Provider shall have no liability for any Provider IP Claim resulting from the failure by the Client to use an Updated version of any Application.

- 9.2 If, in the Provider's reasonable opinion, the Client's use of any Application may become the subject of a Provider IP Claim, then the Provider may:
- (a) obtain for the Client the right to continue using those aspects of the relevant Application that are the subject of the Provider IP Claim; or
 - (b) replace or modify those aspects of the relevant Application that are the subject of a Provider IP Claim so that they become non-infringing, provided that the replaced or modified aspects have substantially the same functionality.
- 9.3 If none of the remedies specified in Clause 9.2 are reasonably available to the Provider, the Provider may terminate the affected Service immediately by giving notice to the Client.
- 9.4 The Client shall indemnify the Provider, its Affiliates, and their respective directors, officers, employees, agents and subcontractors against all losses and expenses incurred by them arising out of or in connection with:
- (a) the Client's use of the Services other than in accordance with the Contract;
 - (b) the Client's failure to use an Updated version of the Service;
 - (c) any breach by the Client of applicable law or regulation (including any breach of the Data Protection Legislation);
 - (d) any allegation or claim brought by a third party alleging that the Provider's use of any materials provided by the Client to the Provider (including the Client Data) in accordance with the Contract infringes that third party's Intellectual Property Rights.
- 9.5 If any third party makes a claim, or notifies an intention to make a claim, against either party (the "**Indemnified Party**") which may reasonably be considered likely to give rise to a liability under the indemnities in this Clause 9 (each an "**Indemnity Claim**"), the Indemnified Party shall:
- (a) as soon as reasonably practicable, give written notice of the Indemnity Claim to the other party (the "**Indemnifying Party**"), specifying the nature of the Indemnity Claim in reasonable detail;
 - (b) not make any admission of liability, agreement or compromise in relation to the Indemnity Claim without the prior written consent of the Indemnifying Party (such consent not to be unreasonably withheld, conditioned or delayed);
 - (c) give the Indemnifying Party and its professional advisers access at reasonable times and on reasonable prior notice to its premises and its officers, directors, employees, agents, representatives and advisers, and to any relevant records and documents within its power or control to enable the Indemnifying Party to examine them and take copies (at the Indemnifying Party's expense) for the purpose of assessing and defending the Indemnity Claim; and
 - (d) at the Indemnifying Party's expense, take such action as the Indemnifying Party may reasonably request to avoid, dispute, compromise or defend the Indemnity Claim.
- 9.6 Each Indemnified Party shall mitigate losses which it may incur as a result of a matter that may give rise to a claim under this Clause 9.
- 9.7 Clause 9.1 and Clause 9.2 sets out the Provider's entire liability to the Client with respect to any Provider IP Claim.

10. Provider obligations

- 10.1 The Provider shall perform the Services with reasonable skill and care.

10.2 The Provider:

- (a) does not warrant that:
 - (i) the Client's use of the Services will be uninterrupted or error-free; or
 - (ii) the Services, Documentation or any information obtained by the Client through use of the Services will meet the Client's requirements; and
- (b) 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 Client acknowledges that the Services and Documentation may be subject to limitations, delays, and other problems inherent in the use of such communications networks and facilities.

11. Client obligations

11.1 The Client shall:

- (a) provide the Provider with:
 - (i) all necessary cooperation in relation to the Contract;
 - (ii) all necessary access to such information as may be required by the Provider to provide the Services, including to Client Data, security access information and configuration services;
- (b) comply with applicable laws and regulations with respect to its activities under the Contract (including the Data Protection Legislation);
- (c) comply with the terms of the Third Party Licences;
- (d) carry out its obligations under the Contract in a timely and efficient manner;
- (e) maintain in place throughout the Subscription Term a written agreement with any relevant Portal in respect of which the Data Feed Service is provided, enabling that Service to be provided;
- (f) ensure that the Authorised Users use the Services and Documentation in accordance with the Contract, and shall be responsible for any breach by any Authorised User of this Contract as if the Client had committed the breach itself;
- (g) ensure that its network and systems comply with the relevant specifications provided to it by the Provider from time to time; and
- (h) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Provider's data centres, and all problems, conditions, delays, delivery failures, and all other loss or damage arising from or relating to the Client's network connections or telecommunications links or caused by the internet.

11.2 If the Provider's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation (each a "**Client Default**"):

- (a) without limiting or affecting any other right or remedy available to it, the Provider may suspend performance of the Services until the Client remedies the Client Default, and rely on the Client Default to relieve it from the performance

of any of its obligations, in each case to the extent the Client Default prevents or delays the Provider's performance of any of its obligations;

- (b) the Provider shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from the Provider's failure or delay in performing any of its obligations as set out in this Clause 11.2; and
- (c) the Client shall indemnify the Provider against any losses or expenses incurred by the Provider in connection with the Client Default.

12. Service Fees

12.1 The Client shall pay the Service Fees to the Supplier in accordance with this Clause 12 and the relevant Order.

12.2 The Client shall pay the Service Fees to the Provider monthly in advance by direct debit. Time for payment of the Fees by the Client shall be of the essence.

12.3 If the Provider has not received payment by the due date for payment:

- (a) the Provider may, without liability to the Client, disable the Client's passwords, accounts and access to all or part of the Services and the Provider shall be under no obligation to provide any of the Services while any Service Fees remain unpaid; and
- (b) interest shall accrue each day on the overdue amount at a rate equal to 4% a year above the Bank of England's base rate from time to time, but at a rate equal to 4% a year for any period when that base rate is below 0%, from the due date for payment until the overdue amount is fully paid (whether before or after judgment).

12.4 All amounts and Service Fees stated or referred to in the Contract:

- (a) shall be payable in pounds sterling;
- (b) are non-cancellable and non-refundable; and
- (c) are exclusive of VAT, which shall be payable in addition and at the same time as the relevant amount or Fees at the appropriate rate.

12.5 All amounts due from the Client to the Provider under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

12.6 After expiry of the Initial Subscription Term, the Provider may increase the Service Fees payable by the Client at any time by giving the Client not less than 30 days' notice.

13. Term and termination

13.1 Each Contract shall commence on the relevant Commencement Date and shall continue for an initial term of 24 months (the "Initial Subscription Term"), after which the subscription shall automatically renew for successive 24-month periods (each a "Renewal Term") unless terminated by either party giving the other not less than 90 days' notice prior to the end of the Initial Subscription Term or the relevant Renewal Term (as applicable), unless otherwise terminated in accordance with the provisions of the Contract.

13.2 The Provider may terminate the Data Feed Service or the SMS Service immediately by giving notice, if the Provider is no longer able to provide the relevant Service as a result of circumstances outside of the reasonable control of the Provider.

13.3 The Provider may terminate the Contract, or any Service, with immediate effect by giving notice to the Client if:

- (a) the Client materially breaches the Contract (unless, in a case where the breach is capable of remedy, the Client remedies the breach within 30 days after receiving notice to do so), including any failure to pay an amount due to the Provider on the due date for payment;
- (b) in the Provider's reasonable opinion, the Client's financial position is such that the Client's capability adequately to fulfil its obligations under the Contract is in jeopardy; or
- (c) there is a change of control of the Client.

13.4 On termination of the Contract for any reason:

- (a) all licences granted under the Contract shall immediately terminate and the Client shall immediately cease all use of the Services and the Documentation;
- (b) each party shall return and make no further use of any equipment, property, Documentation and all other items (and all copies of them) belonging to the other party;
- (c) the Provider may destroy or otherwise dispose of any of the Client Data in its possession unless the Provider receives, no later than 60 days after the effective date of termination of the Contract, a written request for the delivery to the Client of the then-most-recent copy of the Client Data in the Provider's possession or control. The Provider shall use reasonable commercial endeavours to deliver the copy to the Client within 30 days of its receipt of such a written request, provided that the Client has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Client shall pay all reasonable expenses incurred by the Provider in returning or disposing of Client Data;
- (d) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract, which existed at or before the date of termination shall not be affected or prejudiced; and
- (e) the Surviving Provisions shall survive termination of the Contract.

14. Limitation of liability

THE CLIENT'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

14.1 Except as expressly and specifically provided in the Contract:

- (a) the Client assumes sole responsibility for any Client Data hosted or processed using the Services and the Documentation. The Provider shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to the Provider by the Client in connection with the Services, or any actions taken by the Provider at the Client's direction;
- (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by law are, to the fullest extent permitted by applicable law, excluded from the Contract; and
- (c) the Services and Documentation are provided to the Client on an "as is" basis.

14.2 Nothing in the Contract excludes or limits the liability of either party for:

- (a) death or personal injury caused by that party's negligence;

- (b) fraud or fraudulent misrepresentation; or
- (c) any other liability which cannot be excluded or limited by law.

14.3 Subject to Clause 14.1 and Clause 14.2:

- (a) the Provider shall only be liable for direct losses arising out of or in connection with the Contract;
- (b) the Provider shall not be liable for any damage caused by the use by the Client of any third party software integrated into, or accessed or used through, the Applications; and
- (c) the Provider's total aggregate liability to the Client (whether in contract, tort or otherwise) arising out of or in connection with the Contract shall be limited to the total Service Fees paid during the 12 months immediately preceding the date on which the claim arose.

15. General

15.1 **Confidentiality.** A party shall disclose information not in the public domain relating to the other only if:

- (a) the person to whom the disclosure is made needs the information for the disclosing party to carry out its obligations under a Contract, and does not itself disclose it; or
- (b) the law so requires.

15.2 **Matters beyond reasonable control.** Neither party shall be liable to the other if it fails to meet its obligations due to matters beyond its reasonable control.

15.3 **Assignment.**

- (a) The Provider may at any time assign or otherwise create an interest in any of its rights and obligations under a Contract without the consent of the Client.
- (b) The Client may not assign or otherwise create any interest in any of its rights and obligations under a Contract without the prior written consent of the Provider.

15.4 **Entire agreement.** The Contract constitutes the entire agreement between the parties relating to its subject matter and supersedes anything previously passing between them relevant to that subject matter.

15.5 **No reliance.** Each party acknowledges that, in entering into each Contract, it does not rely on anything that is not set out in that Contract.

15.6 **Variation.** The Provider may vary these Conditions from time to time by giving notice to the Client. No other variation of the Contract shall be effective unless it is in writing and signed by the parties.

15.7 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under any Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the future exercise of that or any other right or remedy. No single or partial exercise of any right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

15.8 **Rights and remedies.** The rights and remedies provided under each Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

15.9 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision of part-provision under this Clause 15.9 shall not affect the validity or enforceability of the rest of the Contract.

15.10 Notices.

- (a) Any notice given to either party under or in connection with a Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office. Any notice will be deemed to have been received (i) if delivered by hand, on signature of a delivery receipt; or (ii) if sent by pre-paid or first-class post or other next working day delivery service, on the second Business Day after posting.
- (b) This Clause 15.10 does not apply to the service of any proceedings or other documents in any legal action or other method of dispute resolution.

15.11 **Counterparts.** Each Contract may be executed in counterparts, each of which when executed shall constitute a duplicate original, but the counterparts shall together constitute the same agreement.

15.12 **No partnership.** Nothing in the Contract is intended to establish any partnership, appoint either party the agent of the other, or otherwise authorise either party to commit the other in any way whatsoever.

15.13 **Third party rights.** A person who is not a party to the Contract shall have no rights to enforce any term of the Contract.

15.14 **Governing law and jurisdiction.** The construction, validity and performance of each Contract and all non-contractual obligations arising from or connected with each Contract shall be governed by English law and the parties hereby irrevocably submit to the exclusive jurisdiction of the English courts to resolve any dispute between them.

Schedule 1

Support

Support

Support for the Services shall comprise a remote technical support desk available 9.00am – 5.30pm on Business Days (excluding 12 noon to 5.30pm on Christmas Eve).

There are two ways of accessing support and contacting the technical support desk as follows:

- submit a query via the online knowledge base within the Alto application; or
- by email to support@vebra.com.

Any calls made by the Client to the Provider may be recorded for training and monitoring purposes. The Provider's support team is made up of highly trained professionals who regularly receive training to ensure that they are fully equipped to answer all the Client's support queries quickly and efficiently. In addition to this, the Provider monitors and records its calls to ensure that it maintains the highest possible standards of service to its customers and regularly carries out surveys to encourage feedback from its customers.

The Provider shall respond to any telephone calls or emails by the method it deems most appropriate, which may be by telephone, email or remote dial-in.

Support does not include any on-site assistance and will only be provided remotely. On-site support is available upon request and will be charged additionally at the Provider's then-current daily rate for this service.

The Client shall provide to the Provider, its employees, contractors, agents and all other persons duly authorised by the Provider with full, safe and uninterrupted access (including remote access) to the Client's systems and facilities as may be reasonably required by the Provider for the purpose of providing support.

The Client shall take all reasonable steps to ensure that the Services are operated in a proper manner and only by employees of the Client who are adequately trained on use of the Services.

The Client shall:

- co-operate with the Provider and provide any assistance or information as may reasonably be required by the Provider, including in relation to the diagnosis of any faults;
- report faults promptly and in sufficient detail to the Provider;
- carry out regular virus checks of the Application.

All calls will be logged, and the Provider reserves the right to monitor calls to ensure that a high quality is maintained.

Exclusions

Support does not include:

- site visits;
- recovery of data;
- general training issues;
- Customisation Services (template creation and amendments);
- support in respect of third party software, irrespective of whether or not supplied by the Provider to the Client;

- support in respect of the Client's systems, network, hardware and/or any other equipment or associated components;
- updates to letters and agreements provided by third parties;
- professional advice in relation to any legal or compliance issues regarding property management or estate agency;
- support in respect of any default or error in any of the Services which arises as a result of a defect or deficiency in, or a failure of, the equipment upon which the Application is operated; a defect or deficiency in or a failure of an internet link; incorrect use of or damage to the Application from whatever cause (other than any act or omission by the Provider) including failure or fluctuation of electrical power; use of the Application in combination with any equipment or software not provided by the Provider or not designated by the Provider as being compatible; any unauthorised amendment or alteration to the Application made by the Client and/or a third party not expressly authorised by the Provider; and/or operator error; and/or
- recovering or correcting data lost or corrupted by computer viruses.

The Client may not modify any databases within the Application and any such modification shall constitute a irremediable material breach, entitling the Provider to terminate this Agreement immediately on notice to the Client.

Schedule 2

SMS Service

1. If the Client elects to receive the SMS Services, and subject to payment by the Client of the SMS Service Fees, the Provider shall provide the Client with access to the SMS Services from within the Applications.
2. If technical and operational conditions allow, the Provider shall permit the Client access to the SMS Services within two Business Days after payment of the relevant SMS Fees.
3. The Provider shall:
 - a. provide the Client with reasonable instructions on how to access the SMS Services. The Provider may change these instructions, the location of the SMS Service servers and methods of accessing the SMS Service servers at any time, and the Provider shall use reasonable endeavours to provide the Client with advance notice of any such changes;
 - b. use reasonable endeavours to ensure successful delivery of messages sent by the Client using the SMS Service. The Client acknowledges that successful delivery of messages through the SMS Service depends on a range of factors outside of the control of the Provider, including internet service providers, telecommunications companies and network operators, and so the Provider cannot guarantee delivery of any messages sent by the Client using the SMS Service;
 - c. not be liable for the content of any messages sent by the Client using the SMS Service;
 - d. use reasonable endeavours to ensure uptime of the SMS Services, but shall not be liable for downtime caused by circumstances beyond the reasonable control of the Provider;
 - e. reserve the right to carry out maintenance and technical alterations to equipment which may affect the availability to the Client of the SMS Service; and
 - f. reserve the right to suspend or stop provision of the SMS Services at its discretion at any time for any reason without notice to the Client.
4. The Client acknowledges and agrees that:
 - a. in order to use the SMS Service, the Client must obtain (as appropriate) email and access to the internet and pay any fees associated with such access. In addition, the Client shall provide at its own cost all hardware and other equipment necessary to make such a connection to the internet;
 - b. to protect the integrity of the system and the SMS Services, the Client shall not send unlawful, obscene, abusive, harassing or threatening messages using the SMS Service. Unsolicited marketing (spamming) is strictly prohibited;
 - c. the Client is responsible to the Provider for any use of the Client's passwords by any third party. The Client shall pay for all messages sent using the SMS Service from the Client's account, and it is therefore recommended that the Client keeps its password confidential;
 - d. after the Client has entered into a Contract relating to SMS Services and has set up a direct debit mandate, the Provider shall send to the Client a password by email. This password serves as authentication of the Client's identity to the Provider and the Provider shall not be required to perform any further authentication of the Client's identity;

- e. all activities conducted using the Client's SMS Service account may be traced to the Client and are deemed to have been performed by the Client and are legally binding for the Client;
 - f. the Client shall be responsible for the content of any messages sent using the SMS Service. The Client shall use the SMS Service in accordance with all applicable laws and regulations (including the Direct Marketing Association's Code of Practice from time to time) and network operator requirements and shall not use the SMS Service to transmit any content which is unlawful, offensive or which could in the Provider's sole determination bring the Provider's reputation or the reputation of the SMS Service into disrepute;
 - g. the Provider takes complaints (whether from individuals, third parties, network operators, regulators (including the Information Commissioner's Office, and any other public or enforcement authority) relating to the Client's use of the SMS Service very seriously, and may suspend provision of the SMS Service if any such complaint is received; and
 - h. it is advised to include its own contact details in messages sent using the SMS Service to ensure that any complaints are direct to the Client (and not to the network operator, the Provider or any third party), and the Provider reserves the right to remove telephone numbers from the SMS Service database in its sole discretion if a complaint is received with respect to that number.
5. The provisions of Clause 7.5 of the Conditions shall apply to the Provider's processing of Client Personal Data as part of the SMS Service.
6. The Client shall indemnify the Provider, its Affiliates, and their respective directors, officers, employees, agents and subcontractors against all losses and expenses incurred by them arising out of or in connection with any use of the SMS Service by the Client or through the Client's SMS Service account other than in accordance with the terms of the Contract and applicable law.

Schedule 3

Data Feed Services

1. If the Client elects to receive the Data Feed Services, and subject to payment by the Client of the Data Feed Service Fees, the Provider shall enable the Client to make available Files to the selected Portals that maintain an agreement with the Provider for this purpose.
2. The Provider:
 - a. may change the specification of the Files at any time without notice to the Client;
 - b. does not commit to provide the Files to the Portals on any particular frequency;
 - c. shall not be liable for the accuracy, completeness or fitness for a particular purpose of the content of any of the Files provided by the Client;
 - d. reserves the right to suspend or stop providing the Files to any or all Portals at any time without notice to the Client; and
 - e. may access and use the data contained in the Files for its own business purposes at its discretion, and the Client grants to the Provider a worldwide, non-exclusive, perpetual, irrevocable, transferable, sub-licensable right to the Files (and any Intellectual Property Rights in the Files) for this purpose.
3. The Client:
 - a. warrants that it is authorised to allow the upload of the information contained in each File on to the Portals (including by having in place all necessary licences, authorisations and consents) and that it has in place a valid, enforceable, written agreement with each Portal provider before submitting Files to the Provider for transmission to the relevant Portal;
 - b. shall not, nor shall the Client permit any third party to, copy, reproduce, redistribute, download, republish, transmit, display, adapt, alter, create derivative works from or otherwise extract or re-utilise any information made available on any Portal, whether for commercial gain or otherwise, without the prior written consent of the Provider;
 - c. shall not, nor shall the Client permit any third party to, reference or link (whether directly or indirectly) to any Provider Website without the prior written consent of the Provider; and
 - d. shall be solely responsible for the content of any Files.
4. The Provider reserves the right to charge the Client for any Files made available at a future date.
5. The Provider may review the fees payable for the Data Feed Service on an annual basis and may change such fees by giving notice to the Client.
6. The Client acknowledges that the Files may contain bugs, errors and other problems that may cause system failures. The Client acknowledges that the Files are provided on an “as is” basis without warranty of any kind (including as to accuracy, completeness and fitness for a particular purpose).

Schedule 4

Property Information

Unless otherwise agreed with the Client, the Provider shall enable the Client to supply the following property information to the Portals:

- property name, street, town, county and postcode;
- property price and price qualifier;
- property type and status;
- number of bedrooms;
- property description;
- property bullet points;
- EPC data as required by legislation; and
- main property image (however, there will be a link back to the additional images from the property recorded on the Portal).

This specification for Files is under constant development and the Provider reserves the right to change the property information that may be supplied to the Portals at any time without notice to the Client.

UK Geographic Data

End User Terms for GeoData

1. General

1.1. In this case:

The **"GeoData"** is made up from several sources:

- a. Ordnance Survey data © Crown copyright and database right 2015
- b. Royal Mail data © Royal Mail copyright and database right 2015
- c. National Statistics data © Crown copyright and database right 2015
- d. Allies Computing Ltd © copyright and database right 2015
- e. Land and Property Services (LPS) © Crown copyright and database right 2015

1.2. **"End Users"** are the Companies or Organisations that purchase/use the GeoData within Allies Computing Ltd's products and services.

2. Ownership and Copyright of the GeoData

2.1. Part of the GeoData contains the Office for National Statistics NSPD Open Data. The terms which apply to this data only are as follows:

2.2. At all times the copyright in the Open Data, in any format, belongs to the Crown, or have been licensed to the Crown. The following attribution statements apply to this licence which must be acknowledged when the Data is used:

2.2.1. Contains Ordnance Survey data © Crown copyright and database right 2010

2.2.2. Contains Royal Mail data © Royal Mail copyright and database right 2010

2.2.3. Contains National Statistics data © Crown copyright and database right 2010

2.3. Any sub-licences that we grant must include the same acknowledgment, and further sub-licences must do the same.

2.4. Part of the GeoData contains LPS Data. The terms which apply to this data only are as follows:

2.4.1. At all times the copyright in LPS Data, in any format, belongs to the Crown, or have been licensed to the Crown. The following attribution statements apply to this licence which must be acknowledged when the Data is used: Contains Land and Property Services data © Crown copyright and database right 2010

2.5. Other parts of the GeoData are provided by Allies Computing Ltd. This data may include:

- Imputed missing values
- Additional fields
- Spelling corrections

- Missing address elements

2.6. The Office for National Statistics has licenced Allies Computing Ltd to resell the data within its products and services.

3. Transfer Restrictions

The GeoData is licensed only to you, the End User, and may not be transferred to anyone without the prior written consent of Allies Computing Ltd. In no event may you transfer, assign, rent, lease, sell or otherwise dispose of the GeoData on a temporary or permanent basis.

4. Restrictions on use

- 4.1. Access to and use of the GeoData indicates your acceptance of these terms and conditions. If you do not agree with them, you should promptly return the GeoData.
- 4.2. You must ensure that you do not use the GeoData in any way that suggests the Data Provider endorses you or your use of the GeoData.
- 4.3. You must ensure that you do not misrepresent the GeoData or its source.
- 4.4. End Users shall register with Allies Computing Ltd and state if the use of the GeoData is for 1) external website use or 2) internal use. The End User shall also declare all other facts that may affect the licence and pricing.
- 4.5. The GeoData may only be used for the End Users own purposes and the provision of services to other Third Parties is not permitted, unless expressly authorised by Allies Computing Ltd.
- 4.6. End Users who would like to offer this service to other Third Parties should inform Allies Computing Ltd.
- 4.7. End Users must comply with the relevant data protection provisions.

5. Additional Disclaimer for Office for National Statistics Data

- 5.1. The Office for National Statistics expressly excludes all warranties (expressed or implied) including, without limitation, implied warranties of merchantability and fitness for a particular purpose with respect to defects in the Data. No warranty is given by the Office for National Statistics as to the accuracy and/or comprehensiveness of the Data, or for the continued supply of the Data.
- 5.2. In no event shall the Office for National Statistics be liable for any loss of profit and/or any other commercial damage including without limitation special, incidental, consequential or other damages.
- 5.3. This Licence is covered by the laws of England and Wales.

Schedule 6

E-Signature Services

1. If the Client elects to receive the E-Signature Services, and subject to payment by the Client of the E-Signature Service Fees, the Provider shall provide the Client with access to the E-Signature Services from within the Applications.
2. The Client acknowledges that by using the E-Signature Services, it will be responsible for ensuring that any agreements intended to be executed using the E-Signature Services (“**E-Signature Documents**”) are valid and enforceable and comply with all relevant legal and regulatory requirements. The Client shall indemnify the Provider, its Affiliates, and their respective directors, officers, employees, agents and subcontractors against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and reasonable legal and other professional costs and expenses) suffered or incurred by them arising out of or in connection with:
 - a. any claim by a third party arising out of or in connection with the E-Signature Documents;
 - b. without limiting the generality of Paragraph 2.a above, any claim by any customer of the Client, or any party with whom that customer of the Client seeks to contract using the E-Signature Services, arising (whether in whole or part) out of or in connection with any agreement or relationship into which those parties enter, or intend to enter, using the E-Signature Services;
 - c. any other claim made by a third party arising (whether in whole or in part) out of or in connection with the Client’s use of the E-Signature Services; and
 - d. any assistance provided under Paragraph 5 below.
3. As soon as reasonably practicable following execution of an E-Signature Document, the Provider shall use reasonable endeavours to cause the Applications to send a copy of the executed E-Signature Document to each of the parties with respect to whom the Client has provided a complete and accurate email address.
4. During the Term, the Provider shall, within 30 days after a reasonable request from the Client, provide the Client with a PDF copy of any E-Signature Document within the Provider’s possession or control by email attachment. The Provider shall not provide any such copy to any customer of the Client, unless otherwise permitted by this Agreement, required to do so by law, or approved in writing by the Client. If the Provider receives a request for a copy of any E-Signature Document from any third party, the Provider shall direct the third party to the Client.
5. During the Term, the Provider shall, at the Client’s expense, provide the Client with reasonable assistance with respect to any legal or other proceedings relating to the execution of the any E-Signature Document. The Provider’s obligation under this Paragraph 5 shall be limited to providing reasonable information relating to the use of the E-Signature Services by the Client and the customers of the Client and providing the Client with a copy of the relevant E-Signature Document in the Provider’s possession or control. The Provider shall not be required to assist with or participate in any such proceedings if doing so would place the Provider in a position adverse to any former, current or potential customer, partner or supplier of the Provider or its Affiliates.
6. On termination of the relevant Contract for any reason, the provisions of Clause 13.4(c) shall apply with respect to the ESignature Documents.