

These are our terms when taking out a Wessex Technology Countermark software solution subscription with us. By purchasing a subscription you (“the Customer”) agree to these terms.

Please read them carefully and let us know if you have any questions before purchasing a subscription. You can get in touch with us by emailing info@wessextech.co.uk.

YOUR ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 12.

CAPITALISED TERMS USED HEREIN WHICH ARE NOT DEFINED WHEN THEY FIRST APPEAR ARE DEFINED IN CLAUSE 27.

1. SUBSCRIPTIONS

1.1 Subject to the Customer purchasing the Company Account, Issuer Subscriptions (or, as the case may be, the Document Allowance), Wessex Technology hereby grants to the Customer a non-exclusive, non-transferable right to permit the Issuers and Users to use the Services and the Guidance during the Subscription Term solely for the purpose of Annotation, Redaction, Validation or Tracing of Customer’s own Documents or products.

1.2 The Customer undertakes that:

- (a) each Issuer shall keep a secure password for his use of the Services and Guidance and that each Issuer shall keep his password confidential;
- (b) it shall maintain a written, up to date list of current Issuers and provide such list to Wessex Technology within 5 Business Days of Wessex Technology’s written request at any time or times;
- (c) it shall permit Wessex Technology to audit the Services in order to establish the name of each Issuer. Such audit may be conducted no more than once per quarter, at Wessex Technology’s expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer’s normal conduct of business;
- (d) if any of the audits referred to in clause 1.2(c) reveal that any password has been provided to any individual who is not an Issuer, then without prejudice to Wessex Technology’s other rights, Wessex Technology may promptly disable such passwords and Wessex Technology shall not issue any new passwords to any such individual.

1.3 Where the Customer has purchased Issuer Subscriptions (rather than Document Allowance), the Customer undertakes that:

- (a) the maximum number of Issuers that it authorises to access and use the Services and the Guidance shall not exceed the number of Issuer Subscriptions it has purchased from time to time;
- (b) it will not allow or suffer any Issuer Subscription to be used by more than one individual Issuer unless it has been reassigned in its entirety to another

individual Issuer, in which case the prior Issuer shall no longer have any right to access or use the Services and/or Guidance;

- (c) if any of the audits referred to in clause 1.2(c) reveal that the Customer has underpaid Subscription Fees to Wessex Technology, then without prejudice to Wessex Technology's other rights, the Customer shall pay to Wessex Technology an amount equal to such underpayment as calculated in accordance with the prices prevailing at the time within 10 Business Days of the date of the relevant audit; and
- (d) if the Customer wishes to purchase additional Issuer Subscriptions, the Customer shall so notify Wessex Technology in writing. Wessex Technology shall evaluate such request for additional Issuer Subscriptions and respond to the Customer with approval or rejection of the request (such approval not to be unreasonably withheld).

1.4 For the purposes of clause 1.3(d), if Wessex Technology approves the Customer's request to purchase additional Issuer Subscriptions, the Customer shall, within 30 days of the date of Wessex Technology's invoice, pay to Wessex Technology the relevant fees for such additional Issuer Subscriptions as applies at the time and, if such additional Issuer Subscriptions are purchased by the Customer part way through the Initial Subscription Term or any Renewal Period (as applicable), such fees shall be pro-rated for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable).

1.5 The Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of 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) in a manner that is otherwise illegal or causes damage or injury to any person or property;

and Wessex Technology reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

1.6 The Customer shall not:

- (a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:

- (i) and except to the extent expressly permitted under this agreement, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Guidance (as applicable) in any form or media or by any means; or
- (ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
- (b) access all or any part of the Services and Guidance in order to build a product or service which competes with the Services and/or the Guidance; or
- (c) use the Services and/or Guidance to provide Services to third parties; or
- (d) subject to clause 21.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Guidance available to any third party except the Issuers, or
- (e) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Guidance, other than as provided under this clause 1.

1.7 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Guidance and, in the event of any such unauthorised access or use, promptly notify Wessex Technology.

1.8 Validation Countermarks

- (a) Before an Issuer is able to apply a Validation Countermark to a Document, the Customer will be required to satisfactorily complete Wessex Technology's Company Authentication Process.
- (b) The Customer undertakes to notify Wessex Technology immediately in the event that there is any change of circumstances, personnel or other relevant matter which might invalidate the Company Authentication Process already undertaken by the Customer.
- (c) Without prejudice to the foregoing, Wessex Technology reserves the right, at any time, to require the Customer to submit to the Company Authentication Process, even if it has already passed.

1.9 The rights provided under this clause 1 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.

2. SERVICES

2.1 Wessex Technology shall, during the Subscription Term, provide the Services and make available the Guidance to the Customer on and subject to the terms of this agreement.

- 2.2 Wessex Technology shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:
- (a) planned maintenance carried out during the maintenance window of 8.00 am to 12.30 pm on Fridays UK time; and
 - (b) unscheduled maintenance performed outside Normal Business Hours, provided that Wessex Technology has used reasonable endeavours to give the Customer at least 6 Normal Business Hours' notice in advance.
- 2.3 Wessex Technology will, as part of the Services and at no additional cost to the Customer, provide the Customer with Wessex Technology's standard customer support services during Normal Business Hours in accordance with Wessex Technology's Support Services Policy in effect at the time that the Services are provided. Wessex Technology may amend the Support Services Policy in its sole and absolute discretion from time to time. The Customer may purchase enhanced support services separately at Wessex Technology's then current rates.

3. APP AND USER PERMISSIONS

- 3.1 The Countermark App is freely downloadable by any potential User from the Website. The Customer agrees not to distribute copies of the App itself but to direct all potential Users to the Website to download the App.
- 3.2 When creating a Countermark the Services will request the Issuer to designate User permissions as "Public", "Registered" or "Private".

Public Countermark

A Public Countermark can be read by any User subject to time and geographic restrictions to retrieve the Snippet linked to the Countermark by the Issuer.

Registered Countermark

A Registered Countermark can be read by any User subject to time and geographic restrictions to retrieve the Snippet linked to the Countermark by the Issuer. The user is required to have a validated email address set in the Countermark App to read the snippet.

Private Countermark

The creation of a Private Countermark requires the Issuer to designate a "Group of Users", being those named Users who may use the App to read the Countermark to retrieve a Snippet. The Issuer will be required to identify the Group of Users by inputting the name, email address, phone number or similar data for each User together with any time and geographic restrictions.

- 3.3 When the Customer creates a Private Countermark, it undertakes to maintain the secrecy of any Countermarks or passwords generated by the Services and to distribute them only to those Users who have been included in the Group of Users. The Customer further undertakes that:
- (a) it will not allow or suffer any password to be used by more than one individual permitted User;
 - (b) if the Customer wishes to amend the Group of Users, it shall do so through the Services which shall, on request by an Issuer, disable any password provided for a particular permitted User.
- 3.4 Countermark Codes are generated randomly and it is possible, if unlikely, that any particular string of digits may appear to the Customer (or an Issuer or User) as inappropriate or offensive. The Customer accepts that it is the Customer's sole responsibility to ensure that its Issuers visually inspect each Countermark Code before accepting it and applying it to a Document. If, for any reason, the Countermark Code appears inappropriate to an Issuer, the Issuer should request the Services to generate an alternative. Wessex Technology accepts no responsibility whatsoever for any Countermark Code being, or being viewed as being, inappropriate or offensive by reason of the particular string of characters comprised in the Countermark Code.

4. CUSTOMER DATA

- 4.1 The Customer shall own all right, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data. Without limiting the foregoing, the Customer gives Wessex Technology the indemnity set forth in clause 11.1 in respect to the Customer Data.
- 4.2 Wessex Technology shall follow its archiving procedures for Customer Data as set out in its Privacy and Security Policy available at the Website, as such document may be amended by Wessex Technology in its sole discretion from time to time. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy shall be for Wessex Technology to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Wessex Technology in accordance with the archiving procedure described in its Privacy Policy. Wessex Technology shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by Wessex Technology to perform services related to Customer Data maintenance and back-up).
- 4.3 Wessex Technology shall, in providing the Services, comply with its Privacy and Security Policy relating to the privacy and security of the Customer Data available at the Website, as such document may be amended from time to time by Wessex Technology in its sole discretion.

- 4.4 If Wessex Technology processes any personal data on the Customer's behalf when performing its obligations under this agreement, the parties record their intention that the Customer shall be the data controller and Wessex Technology shall be a data processor and in any such case:
- (a) the Customer acknowledges and agrees that the personal data may be transferred or stored outside the EEA or the country where the Customer and the Issuers are located in order to carry out the Services and Wessex Technology's other obligations under this agreement;
 - (b) the Customer shall ensure that the Customer is entitled to transfer the relevant personal data to Wessex Technology so that Wessex Technology may lawfully use, process and transfer the personal data in accordance with this agreement on the Customer's behalf;
 - (c) the Customer shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation;
 - (d) Wessex Technology shall process the personal data only in accordance with the terms of this agreement and any lawful instructions reasonably given by the Customer from time to time; and
 - (e) each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

5. THIRD PARTY PROVIDERS

The Customer acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. Wessex Technology makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not Wessex Technology. Wessex Technology recommends that the Customer refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Wessex Technology does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

6. WESSEX TECHNOLOGY'S OBLIGATIONS

- 6.1 Wessex Technology undertakes that the Services will be performed substantially in accordance with the Specification and with reasonable skill and care.

6.2 The undertaking at clause 6.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Wessex Technology's instructions, or modification or alteration of the Services by any party other than Wessex Technology or Wessex Technology's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Wessex Technology will, at its expense, use reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 6.1. Notwithstanding the foregoing, Wessex Technology:

- (a) does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or that the Services, Guidance and/or the information obtained by the Customer through the Services will meet the Customer'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 Customer acknowledges that the Services and Guidance may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

6.3 This agreement shall not prevent Wessex Technology from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this agreement.

6.4 Wessex Technology warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this agreement.

7. CUSTOMER'S OBLIGATIONS

The Customer shall:

- (a) provide Wessex Technology with:
 - (i) all necessary co-operation in relation to this agreement; and
 - (ii) all necessary access to such information as may be required by Wessex Technology;

in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;

- (b) comply with all applicable laws and regulations with respect to its activities under this agreement;
- (c) carry out all other Customer responsibilities set out in this agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, Wessex Technology

may adjust any agreed timetable or delivery schedule as reasonably necessary;

- (d) ensure that the Issuers and any Users designated in a Group of Users use the Services and the Guidance in accordance with the terms and conditions of this agreement and shall be responsible for any Group Users and Issuer's breach of this agreement;
- (e) obtain and shall maintain all necessary licences, consents, and permissions necessary for Wessex Technology, its contractors and agents to perform their obligations under this agreement, including the Services;
- (f) ensure that its network and systems comply with the relevant specifications provided by Wessex Technology from time to time; and
- (g) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Wessex Technology's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

8. CHARGES AND PAYMENT

8.1 The Customer shall pay the Subscription Fees to Wessex Technology for the Issuer Subscriptions or, as the case may be, the Document Allowance in accordance with this clause 8 and the Schedule.

8.2 The Customer shall on the Effective Date provide to Wessex Technology valid, up-to-date and complete credit card details or approved purchase order information acceptable to Wessex Technology and any other relevant valid, up-to-date and complete contact and billing details and, if the Customer provides:

- (a) its credit card details to Wessex Technology, the Customer hereby authorises Wessex Technology to bill such credit card:
 - (i) on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term; and
 - (ii) subject to clause 13.1, on each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period;
- (b) its approved purchase order information to Wessex Technology, Wessex Technology shall invoice the Customer:
 - (i) on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term; and
 - (ii) subject to clause 13.1, at least 30 days prior to each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period,

and the Customer shall pay each invoice within 30 days after the date of such invoice.

8.3 If Wessex Technology has not received payment within 30 days after the due date, and without prejudice to any other rights and remedies of Wessex Technology:

- (a) Wessex Technology may, without liability to the Customer, disable the Customer's password(s), account and access to all or part of the Services and Wessex Technology shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
- (b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the then current base lending rate of Wessex Technology's bankers in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

8.4 All amounts and fees stated or referred to in this agreement:

- (a) shall be payable in pounds sterling;
- (b) are, subject to clause 12.4(b), non-cancellable and non-refundable;
- (c) are exclusive of value added tax, which shall be added to Wessex Technology's invoice(s) at the appropriate rate.

8.5 If, at any time whilst using the Services, the Customer exceeds the amount of disk storage space, or Service Use, specified in the Guidance, Wessex Technology shall charge the Customer, and the Customer shall pay, Wessex Technology's then current excess data storage or excess Service Use fees. Wessex Technology's excess data storage fees or excess Service Use current as at the Effective Date are set out in the Schedule.

8.6 Wessex Technology shall be entitled to increase the Subscription Fees, and the excess storage fees payable pursuant to clause 8.5 at the start of each Renewal Period upon 90 days' prior notice to the Customer

9. PROPRIETARY RIGHTS

9.1 The Customer acknowledges and agrees that Wessex Technology and/or its licensors own all Intellectual Property Rights in the Services and the Guidance (including the Countermark Trade Mark and the Countermark Font). Except as expressly stated herein, this agreement does not grant the Customer any rights to, or in, patents, copyright, database right, design rights (whether registered or unregistered), trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Guidance.

9.2 Without limiting clause 9.1, the Customer undertakes that it shall not (and it shall not permit or suffer any Issuer or restricted User to) remove or obscure any proprietary notice included as part of the Countermark Code.

9.3 Wessex Technology confirms that it has all the rights in relation to the Services and the Guidance that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this agreement.

10. CONFIDENTIALITY

10.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this agreement. A party's Confidential Information shall not be deemed to include information that:

- (a) is or becomes publicly known other than through any act or omission of the receiving party;
- (b) was in the other party's lawful possession before the disclosure;
- (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
- (d) is independently developed by the receiving party, which independent development can be shown by written evidence; or
- (e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

10.2 Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this agreement.

10.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this agreement.

10.4 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

10.5 The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute Wessex Technology's Confidential Information.

10.6 Wessex Technology acknowledges that the Customer Data is the Confidential Information of the Customer.

10.7 No party shall make, or permit any person to make, any public announcement concerning this agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any

governmental or regulatory authority (including any relevant securities exchange), any court or other authority of competent jurisdiction.

10.8 The above provisions of this clause 10 shall survive termination of this agreement, however arising.

11. INDEMNITY

11.1 The Customer shall defend, indemnify and hold harmless Wessex Technology against claims, actions, proceedings, losses, damages, expenses and costs (including court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Services and/or Guidance (including the copying or storage of any part of a Document and the uploading of any personal data relating to Issuers or Users) provided that:

- (a) the Customer is given prompt notice of any such claim;
- (b) Wessex Technology provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and
- (c) the Customer is given sole authority to defend or settle the claim.

11.2 Wessex Technology shall defend the Customer, its officers, directors and employees against any claim that the Services or Guidance infringes any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:

- (a) Wessex Technology is given prompt notice of any such claim;
- (b) the Customer provides reasonable co-operation to Wessex Technology in the defence and settlement of such claim, at Wessex Technology's expense; and
- (c) Wessex Technology is given sole authority to defend or settle the claim.

11.3 In the defence or settlement of any claim, Wessex Technology may procure the right for the Customer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this agreement on 5 Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

11.4 In no event shall Wessex Technology, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:

- (a) a modification of the Services or Guidance by anyone other than Wessex Technology; or
- (b) the Customer's use of the Services or Guidance in a manner contrary to the instructions given to the Customer by Wessex Technology; or

- (c) the Customer's use of the Services or Guidance after notice of the alleged or actual infringement from Wessex Technology or any appropriate authority.

11.5 The foregoing and clause 12.4(b) state the Customer's sole and exclusive rights and remedies, and Wessex Technology's (including Wessex Technology's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

12. LIMITATION OF LIABILITY

12.1 This clause 12 sets out the entire financial liability of Wessex Technology (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer:

- (a) arising under or in connection with this agreement;
- (b) in respect of any use made by the Customer of the Services and Guidance or any part of them; and
- (c) in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this agreement.

12.2 Except as expressly and specifically provided in this agreement:

- (a) the Customer assumes sole responsibility for results obtained from the use of the Services and the Guidance by the Customer, and for conclusions drawn from such use. Wessex Technology shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Wessex Technology by the Customer in connection with the Services, or any actions taken by Wessex Technology at the Customer's direction;
- (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this agreement; and
- (c) the Services and the Guidance are provided to the Customer on an "as is" basis.

12.3 Nothing in this agreement excludes the liability of Wessex Technology:

- (a) for death or personal injury caused by Wessex Technology's negligence; or
- (b) for fraud or fraudulent misrepresentation.

12.4 Subject to clause 12.2 and clause 12.3:

- (a) Wessex Technology shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or

pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this agreement; and

- (b) Wessex Technology's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement shall be limited to the total Subscription Fees paid for the Issuer Subscriptions during the 12 months immediately preceding the date on which the claim arose.

13. TERM AND TERMINATION

13.1 This agreement shall, unless otherwise terminated as provided in this clause 13, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, this agreement shall be automatically renewed for successive periods of 12 months (each a **Renewal Period**), unless:

- (a) either party notifies the other party of termination, in writing, at least 60 days before the end of the Initial Subscription Term or any Renewal Period, in which case this agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or
- (b) otherwise terminated in accordance with the provisions of this agreement;

and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the **Subscription Term**.

13.2 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

- (a) the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
- (b) the other party commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
- (c) the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- (d) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (e) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or

enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

- (f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (g) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;
- (h) the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- (k) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.2(d) to clause 13.2(j) (inclusive);
- (l) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- (m) there is a Change of Control of the other party.

13.3 On termination of this agreement for any reason:

- (a) all licences granted under this agreement shall immediately terminate and the Customer's access to and right to use the Services shall end;
- (b) each party shall return and make no further use of any equipment, property, Guidance and other items (and all copies of them) belonging to the other party;
- (c) Wessex Technology may destroy or otherwise dispose of any of the Customer Data in its possession unless Wessex Technology receives, no later than ten days after the effective date of the termination of this agreement, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. Wessex Technology shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer 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 Customer shall pay all reasonable expenses incurred by Wessex Technology in returning or disposing of Customer Data; and

- (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 agreement which existed at or before the date of termination shall not be affected or prejudiced.

14. FORCE MAJEURE

Wessex Technology shall have no liability to the Customer under this agreement if it is prevented from or delayed in performing its obligations under this agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including Pandemics, strikes, lock-outs or other industrial disputes (whether involving the workforce of Wessex Technology or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.

15. CONFLICT

If there is an inconsistency between any of the provisions in the main body of this agreement and the Schedules, the provisions in the main body of this agreement shall prevail.

16. VARIATION

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

17. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

18. RIGHTS AND REMEDIES

Except as expressly provided in this agreement, the rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

19. SEVERANCE

- 19.1 If any provision (or part of a provision) of this agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 19.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

20. ENTIRE AGREEMENT

- 20.1 This agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.
- 20.2 Each of the parties acknowledges and agrees that in entering into this agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this agreement or not) relating to the subject matter of this agreement, other than as expressly set out in this agreement.

21. ASSIGNMENT

- 21.1 The Customer shall not, without the prior written consent of Wessex Technology, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.
- 21.2 Wessex Technology may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

22. NO PARTNERSHIP OR AGENCY

Nothing in this agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

23. THIRD PARTY RIGHTS

This agreement does not confer any rights on any person or party (other than the parties to this agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

24. NOTICES

- 24.1 Any notice required to be given under this agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this agreement, or such other address as may have been notified by that party for such purposes, or sent by fax to the other party's fax number as set out in this agreement.
- 24.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

25. GOVERNING LAW

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

26. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

27. INTERPRETATION

- 27.1 The definitions and rules of interpretation in this clause apply in this agreement.

Annotation: the application of a Countermark Code to a Document or product for the purpose of linking the Document or product to additional data provided by the Service.

Annotation Data: the additional information displayed by the Services when a User reads a Countermark.

Authorised Issuers: those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services and the Guidance, as further described in clause 1.2(b).

App, Countermark App: the mobile device App through which Users may authenticate Documents and/or access a Snippet (as determined by the Customer).

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

Change of Control: the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company, and **controls, controlled** and the expression **change of control** shall be construed accordingly.

Company Authentication Process: the process specified by Wessex Technology from time to time whereby the Customer will be required to prove its identity to Wessex Technology. This may include supplying company credit card details, providing evidence that a specific IP address is registered to the Customer or logging on with a passcode generated by a physical device provided by Wessex Technology.

Confidential Information: information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 10.5.

Countermark: a machine- and human eye-readable alpha-numeric string of 16, 24 or 32 characters displayed in the Countermark Font.

Customer Data: the data inputted by the Customer or its Issuers for the purpose of using the Services, including Snippets.

Countermark Font: the font developed by Wessex Technology which is the subject of Registered Design.

Countermark Trade Mark: European Union trade mark No. 010206092 for the word "Countermark" in classes 9, 16, 35 and 42

Document: a Document prepared by, compiled by or otherwise lawfully in the possession of the Customer

Document Allowance: the subscription purchased by the Customer pursuant to clause 8.1, if specified in the Schedule, which entitles Issuers to access and use the Services and the Guidance in accordance with this agreement for a specific number of Documents.

Effective Date: the date of this agreement.

Guidance: the guidance and notes made available to the Customer by Wessex Technology online via the Website which sets out a description of the Services and the user instructions for the Services.

Initial Subscription Term: the initial term of this agreement as set out in the Schedule.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Issuers: those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services and the Guidance, as further described in clause 1.2(b).

Issuer Subscriptions: the Issuer subscriptions purchased by the Customer pursuant to clause 8.1, if specified in the Schedule, which entitle Issuers to access and use the Services and the Guidance in accordance with this agreement.

Normal Business Hours: 9.00 am to 4.00 pm local UK time, each Business Day.

Redacted Data: that part of a Document, as selected by an Issuer, which is to be replaced with a Countermark and thereafter stored securely by Wessex Technology for later access by Users.

Redaction: the substitution of Redacted Data by a Countermark Code in a Document.

Renewal Period: the period described in clause 13.1.

Snippet: Annotation Data, Redacted Data or Validation Data, depending on the Countermark.

Services: the subscription services provided by Wessex Technology to the Customer under this agreement via the Website, as more particularly described in the Guidance.

Service Use: the maximum numbers of Countermark Codes and/or Snippets which the Customer is entitled to generate by using the Services in any particular reference period as set out in the Guidance.

Software: the online software applications and the Countermark App provided by Wessex Technology as part of the Services.

Specification: the technical and operational parameters of the Services as published on the Website from time to time

Subscription Fees: the subscription fees payable by the Customer to Wessex Technology for the Issuer Subscriptions or the Document Allowance, as applies at the time.

Subscription Term: has the meaning given in clause 13.1 (being the Initial Subscription Term together with any subsequent Renewal Periods).

Support Services Policy: Wessex Technology's policy for providing support in relation to the Services as made available at the Website.

Tracking: the application of a Countermark Code to a Document for the purpose of uniquely identifying that Document and enabling the Customer to track the Document's distribution and use by Users.

User: person who uses a mobile device to read a Countermark. Users may be a member of the general public or a member of a limited Group of Users, as determined by the Issuer.

Validation: the application of a Countermark Code to a Document for the purpose of uniquely identifying that Document and confirming its authenticity and integrity by Users.

Validation Data: the information displayed by the Services to confirm the authenticity and integrity of a Document.

Virus: any thing or device (including any software, code, file or programme) which may: 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; 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 adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

www.countermark.com or such other website address as may be notified to the Customer from time to time.

- 27.2 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.
- 27.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.
- 27.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 27.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 27.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 27.7 The word "including" means "including without limitation".
- 27.8 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this agreement.
- 27.9 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision.
- 27.10 A reference to writing or written includes communications through the Website but not e-mail.
- 27.11 References to clauses and schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule to this agreement.