

TM2 License Agreement

AS THERE ARE 2 OPTIONS FOR USING TM2, A LICENCE SUBSCRIPTION OR A LICENCE PURCHASE, A DIFFERENT LICENCE AGREEMENT APPLIES TO EACH. THIS DOCUMENT SETS OUT THE RELEVANT LICENCE FOR EACH OPTION.

IF YOU ARE USING A SUBSCRIPTION FOR YOUR TM2 LICENCE, THE FOLLOWING LICENCE AGREEMENT APPLIES:

IMPORTANT NOTICE: PLEASE READ CAREFULLY BEFORE INSTALLING THE SOFTWARE: This License is a legal agreement between you ("Licensee" or "you") and Blue Zinc IT Ltd (No. NI043881) whose registered office is at Dill House, Unit 4C, Castlereagh Business Park, 478 Castlereagh Rd, Belfast, County Antrim, BT5 6BQ ("Blue Zinc") for the software specified in Blue Zinc's order form ("Software") which includes computer software, the data supplied with it, printed materials and electronic or hard copy documentation ("Documentation").

THIS LICENSE IS THE LICENSE FOR THE SUITE OF TM2 PRACTICE MANAGEMENT SYSTEM AND MODULES. BY USING ANY ASPECT OF TM2 UNDER AN AGREED SUBSCRIPTION, YOU HAVE ACCEPTED THE TERMS OF THIS LICENSE, WHICH BIND YOU AND ALL OF YOUR EMPLOYEES AND GOVERN ALL USE OF THE SOFTWARE. IF YOU NO LONGER AGREE TO ABIDE BY THE TERMS OF THIS LICENSE, BLUE ZINC IS UNWILLING TO LICENSE THE SOFTWARE TO YOU, AND YOU MUST DISCONTINUE INSTALLATION OF THE SOFTWARE NOW. IN THIS CASE YOU MUST RETURN THE MEDIUM ON WHICH THE SOFTWARE IS STORED, ALL PACKAGING AND ALL ACCOMPANYING DOCUMENTATION TO BLUE ZINC OR AN APPOINTED DISTRIBUTOR WITHIN 14 DAYS OF RECEIPT.

THIS SOFTWARE IS COMPATIBLE WITH WINDOWS OPERATING SYSTEMS. BLUE ZINC CANNOT GUARANTEE THAT THE SOFTWARE WILL BE COMPATIBLE FOR USE WITH OTHER OPERATING SYSTEMS.

1. Interpretation

In this License the following terms shall have the following meanings:

- 1.1 "License Fee" means the monthly license fee set out in the Order Form and payable by you to Blue Zinc or its Authorised Distributor for use of the Software in accordance with this License;
- 1.3 "Order Form" mean Blue Zinc's order form for the Software;
- 1.4 "Appointed Distributor" means any company distributing or selling the Software under license from Blue Zinc;
- 1.5 "Use" shall mean and include:
 - 1.5.1 utilisation of the Software by copying, transmitting or loading the same into the temporary memory or installing into the permanent memory of a computer, for the processing by the computer of instructions or statements contained in such Software;
 - 1.5.2 making no more than two copies of the Software for back-up purposes, program error verification, or to replace defective media;
 - 1.5.3 using any Documentation in support of the use permitted under clause 2 of this License;
 - 1.5.4 and "Used" shall have a corresponding meaning.
- 1.6 "Initial Contract Term" means the initial period of service as specified in clause 8.1;
- 1.7 "Extension Term" means each successive period of twelve months after the Initial Contract Term.

2. License

- 2.2 In consideration of your agreeing to abide by the terms of this License (by installing the Software) and payment of the License Fee, Blue Zinc hereby grants to you a perpetual, non-exclusive and non-transferable license during the term of this License to Use the Software under the terms set out below.
- 2.3 This License entitles the Licensee to load, install and Use the Software on any number of compatible computers, provided that it is used by no more than the number of concurrent users agreed with Blue Zinc.

3. Licensee's Undertakings

- 3.1 The Licensee undertakes not to perform any of the following acts except to the extent permitted by any applicable law:
 - 3.1.1 rent, lease, sub-license or lend the Software;
 - 3.1.2 copy the Software or the Documentation other than for back-up purposes as set out in clause 1.3.2 or as set out in the Documentation;
 - 3.1.3 translate, merge, adapt, vary, modify the Software or Documentation;
 - 3.1.4 disassemble, decompile, reverse engineer or create derivative works based on the whole or any part of the Software;
 - 3.1.5 to assign the benefit of this License to any third party without the prior written consent of Blue Zinc;
 - 3.1.6 make alterations to, or modifications of, the whole or any part of the Software or permit the Software or any part of it to be combined with, or become incorporated in, any other programs.
- 3.2 The Licensee undertakes:
 - 3.2.1 to maintain accurate and up-to-date records of the number and location of all copies of the Software;
 - 3.2.2 to ensure that its employees, agents and other parties who will use the Software are notified of this License and the terms hereof prior to such employee, agent or party using the same and to ensure that such parties use the Software in accordance with the terms of this License;
 - 3.2.3 to reproduce and include the copyright notice of Blue Zinc on all and any copies, whether in whole or in part;
 - 3.2.4 within 14 days after the date of termination or discontinuance of this License for whatever reason to, at Blue Zinc's option, return to Blue Zinc or destroy the Software, the Documentation and all updates, upgrades or copies thereof, in whole and in part, in any form;
 - 3.2.5 to permit Blue Zinc, its Appointed Distributors or representatives, at all reasonable times and on reasonable advance notice, to inspect and have access to any premises at which the Software or the Documentation is being kept or used, to the computer equipment located there, and to any records kept pursuant to this License, for the purpose of ensuring that you are complying with the terms of this License.
- 3.3 The Licensee hereby undertakes to comply with and be bound by all of the terms of 3rd party software

licenses contained within the Software (including, without limitation, Microsoft .Net, Microsoft SQL Server, Crystal Reports and Stimulsoft). The following third party open source components are also used – NHibernate, Fluent NHibernate, Caliburn, CastleProject, Auotmapper, Apache Logging Services, NewtonSoft JSon, Fluent Validation, Notify Property Weaver, Heredar, Open VPN and Graph.

4. Use of Anonymised Data

- 4.1 By entering into this License, you acknowledge and agree that Blue Zinc may collect, process and analyse anonymous use statistics and other technical data (but not, for the avoidance of doubt, any personal data as defined by the Data Protection Act 1998 or any subsequent legislation that supersedes the Data Protection Act 1998 such as the General Data Protection Regulation 'GDPR') for the purposes of product improvement. This includes, without limitation and by way of example only, analysis of how many users across Blue Zinc's client base are using individual functions and the extent of such use.

5. Fees

- 5.1 You shall pay the License Fee to Blue Zinc monthly in advance on the first day of each month during the term of this License. Payment of the License Fee shall commence on the first day of the month following the date upon which a copy of the Order Form, signed by you, is received by Blue Zinc, together with complete and valid direct debit instructions ("Commencement Date").
- 5.2 All sums payable under this License are inclusive of VAT or any relevant local sales taxes, for which you shall be responsible.
- 5.3 If you fail to pay any amount due under this License, Blue Zinc may charge you interest on the overdue amount (payable by you immediately on demand) from the due date up to the date of actual payment, after as well as before judgement, at the rate of 2 % per annum above the base rate of HSBC plc. Such interest shall accrue on a daily basis and be compounded quarterly.
- 5.4 Blue Zinc shall have the right, subject to 14 days prior written notice to you, to increase our Charges at any time during the Initial Contract Term or any Extension Term, whether to reflect increase costs to us from such third parties or otherwise.

6. Copyright

The Licensee acknowledges that any and all of the copyright, trade marks, trade names, patents and other intellectual property rights subsisting in or used or in connection with the Software and the Documentation throughout the world are and remain the sole property of Blue Zinc or its licensors, that rights in the Software are licensed (not sold) to you, and that you have no rights in, or to, the Software or the Documentation other than the right to use them in accordance with the terms of this License.

7. Warranties

- 7.1 The Licensee acknowledges that:
- 7.1.1 software in general is not error-free and agrees that the existence of such errors in the Software shall not constitute a breach of this License;
 - 7.1.2 good data processing procedure dictates that any software be thoroughly tested with non-critical data before relying on it;
 - 7.1.3 because of the various hardware and software environments into which the Software may be put, no warranty of fitness for a particular purpose is offered.
- 7.2 In the event that the Licensee discovers a material error in the Software which substantially affects the Licensee's use of the same (and which is not caused by any modification, variation or addition to the Software not performed by Blue Zinc or which is caused by its incorrect use, abuse or corruption of the Software or by use of the Software with other software or on equipment with which it is incompatible), Blue Zinc shall at its sole option either refund the License Fee or use all reasonable endeavours to correct by patch or new release (at its option) that part of the Software which does not so comply.
- 7.3 To the extent permitted by law, Blue Zinc disclaims all other warranties with respect to the Software, either express or implied, including but not limited to any implied warranties of quality or fitness for any particular purpose (provided that nothing in this License shall be deemed to effect the statutory rights of consumers where the Licensee is a consumer for the purposes of such statutory rights).

8. Blue Zinc's Liability

- 8.1 Blue Zinc (except in respect of death or personal injury caused by the negligence of Blue Zinc, its employees, agents or authorized representatives, liability for which shall not be limited) shall not be liable to the Licensee for any indirect, special, incidental or consequential loss or damage (including, without limitation, loss of income, loss of business profits or contracts, business interruption, loss of anticipated savings, loss of information, loss of opportunity, goodwill or reputation or loss of, damage to or corruption of data), whether arising in contract, tort (including negligence), misrepresentation or otherwise.
- 8.2 Subject to clause 7.1, Blue Zinc's maximum aggregate liability under or in connection with this License, or any collateral contract, whether in contract, tort (including negligence) or otherwise, shall be limited to a sum equal to the total License Fees paid by the Licensee to Blue Zinc since the Commencement Date.
- 8.3 Subject to clauses 7.1 and 7.2, Blue Zinc's liability for infringement of third party intellectual property rights shall be limited to breaches of rights subsisting in the UK.

9. Term and Termination

- 9.1 This License shall commence on the Commencement Date and, subject to any earlier termination in accordance with the terms of this License, shall continue thereafter for an initial period of 12 months (“Initial Period”). Upon expiry of the Initial Period, subject to the remainder of this clause 8, this Licence shall automatically renew for subsequent periods of 12 months each (each a “Renewal Period”).
- 9.2 Blue Zinc may by notice in writing to the Licensee terminate this License:-
- 9.2.1 if the Licensee fails to pay any amount due under this License on the due date for payment and remains in default not less than 14 days after being notified by Blue Zinc that payment remains outstanding; or
 - 9.2.2 if the Licensee is in breach of any term, condition or provision of this License or required by applicable law and fails to remedy such breach (if capable of remedy) within 30 days of having received written notice from Blue Zinc specifying such breach; or
 - 9.2.3 in the event that Blue Zinc elects to supply to the Licensee free of charge an up-graded version of the Software which does not result in any material diminution in functionality, in which case such up-graded version of the Software shall be subject to the standard license terms of Blue Zinc at the time of such supply;
 - 9.2.4 if a petition for a bankruptcy order to be made against you has been presented to the court (or any similar or analogous action is taken in any other jurisdiction);
 - 9.2.5 if (where you are a company) you become insolvent or unable to pay your debts (within the meaning of the Insolvency (Northern Ireland) Order 1989), enter into liquidation (whether voluntary or compulsory), pass a resolution for your winding up, have a receiver or administrative manager, trustee, liquidator or similar officer appointed over the whole or any part of your assets, make any composition or arrangement with your creditors or take or suffer any similar or analogous action in any jurisdiction in consequence of debt, or become unable to pay your debts (within the meaning of the Insolvency (Northern Ireland) Order 1989).
- 9.3 The Licensee may terminate this License at any time following expiry of the Initial Period by providing Blue Zinc with not less than 30 days prior written notice to that effect.
- 9.4 Termination, howsoever or whenever occasioned shall be subject to any rights and remedies Blue Zinc may have under this License or under the law.
- 9.5 Upon termination for any reason:
- 9.5.1 all rights granted to you under this License shall cease;
 - 9.5.2 you must cease all activities authorized by this License;
 - 9.5.3 you must immediately delete or remove the Software from all computer equipment in your possession and immediately destroy or return to Blue Zinc or its Authorised Distributor (at their option) all copies of the Software then in your possession, custody or control.
 - 9.5.4 if you do so terminate, you will remain liable for all Charges up to the date the Contract ends.

10. Data Protection

- 10.1 The Licensee and Blue Zinc acknowledge that for the purposes of the Data Protection Act 1998 (or any subsequent legislation that supersedes the Data Protection Act 1998 such as the General Data Protection Regulation ‘GDPR’), the Licensee is the data controller (as defined by section 1(1) of the Data Protection Act 1998 or any subsequent legislation that supersedes the Data Protection Act 1998 such as the General Data Protection Regulation ‘GDPR’) and Blue Zinc is the data processor in respect of any personal data (as defined by section 1(1) of the Data Protection Act 1998 or any subsequent legislation that supersedes the Data Protection Act 1998 such as the General Data Protection Regulation ‘GDPR’ and which relates only to personal data, or any part of such personal data, in respect of which the Licensee is the data controller and in relation to which Blue Zinc is providing services).
- 10.2 Blue Zinc shall process the personal data only in accordance with the Licensee’s instructions from time to time and shall not process the personal data for any purpose other than those expressly authorised by the Licensee.
- 10.3 Each party warrants to the other that it will process the personal data in compliance with all applicable laws, enactments, regulations, orders, standards and other similar instruments.
- 10.4 Blue Zinc warrants that, having regard to the state of technological development and the cost of implementing any measures, it will:
- 10.4.1 take appropriate technical and organisational measures against the unauthorised or unlawful processing of personal data and against the accidental loss or destruction of, or damage to, personal data to ensure a level of security appropriate to:
 - (a) the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and
 - (b) the nature of the data to be protected.
 - 10.4.2 take reasonable steps to ensure compliance with those measures.
- 10.5 The Licensee acknowledges that Blue Zinc is reliant on the Licensee for direction as to the extent to which Blue Zinc is entitled to use and process the personal data.
- 10.6 Blue Zinc may authorise a third party to process the personal data provided such third party’s contract is on terms which are substantially the same as those set out in this License and terminate automatically on termination of this License. Where a third party is used to process personal data, Blue Zinc shall ensure all reasonable and appropriate technical and organisational measures are in place to ensure the protection of such personal data.
- 10.7 The Licensee acknowledges that for the purposes of storing any personal data required to fulfil the contract between the Licensee and Blue Zinc, Blue Zinc shall be a data controller (as defined by section 1(1) of the Data Protection Act 1998 or any subsequent legislation that supersedes the Data Protection Act 1998 such as the General Data Protection Regulation ‘GDPR’). Blue Zinc shall take all reasonable and appropriate technical and organisational measures are in place to ensure the protection of this personal data pursuant to clause 9.4 above.

11. General

- 11.1 The Licensee shall not assign or otherwise transfer all or any part of the Software or this License without

the prior written consent of Blue Zinc.

- 11.2 Failure or neglect by either party to enforce at any time any of the provisions hereof shall not be construed nor shall be deemed to be a waiver of that party's rights hereunder nor in any way affect the validity of the whole or any part of this License nor prejudice that party's rights to take subsequent action.
- 11.3 The parties hereby agree that this License shall be construed in accordance with Northern Ireland Law and submit to the non-exclusive jurisdiction of the courts of Northern Ireland.
- 11.4 This License constitutes the entire understanding between the parties in respect of the Software, and shall supersede and override any prior agreement, understanding, communication or representation whether oral or written.
- 11.5 This License is binding on you and us and on our respective successors and assigns.
- 11.6 Blue Zinc will not be liable or responsible for any failure to perform, or delay in performance of, any of its obligations under this License that is caused by an event outside of its reasonable control.
- 11.7 Blue Zinc make no representations relating to specific compliance with any certifications or externally defined standards and any assumptions made by the user relating to specific performance or compliance of the software is at their sole risk. This includes, but is not limited to, PCI compliance in the UK or any other payment processing or security standards.

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IMPORTANT NOTICE: PLEASE READ CAREFULLY BEFORE INSTALLING THE SOFTWARE: This License is a legal agreement between you ("Licensee" or "you") and Blue Zinc IT Ltd (No. NI043881) whose registered office is at Dill House, Unit 4C, Castlereagh Business Park, 478 Castlereagh Rd, Belfast, County Antrim, BT5 6BQ ("Blue Zinc") for this software ("Software") which includes computer software, the data supplied with it, printed materials and electronic or hard copy documentation ("Documentation").

THIS SOFTWARE IS COMPATIBLE WITH WINDOWS OPERATING SYSTEMS. BLUE ZINC CANNOT GUARANTEE THAT THE SOFTWARE WILL BE COMPATIBLE FOR USE WITH OTHER OPERATING SYSTEMS. THIS LICENSE IS THE LICENSE FOR THE SUITE OF TM2 PRACTICE MANAGEMENT SYSTEM AND MODULES. BY USING ANY ASPECT OF TM2 UNDER AN AGREED SUBSCRIPTION, YOU HAVE ACCEPTED THE TERMS OF THIS LICENSE. DO NOT INSTALL OR USE THIS SOFTWARE UNTIL YOU HAVE READ AND ACCEPTED ALL THE TERMS OF THIS LICENSE AND WISH TO BECOME THE LICENSEE OF THE SOFTWARE. ACCEPTANCE SHALL BIND YOU AND ALL OF YOUR EMPLOYEES TO THE TERMS OF THIS LICENSE. BY INSTALLING THE SOFTWARE YOU AGREE TO THE TERMS OF THIS LICENSE WHICH WILL BIND YOU AND YOUR EMPLOYEES. IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENSE, BLUE ZINC IS UNWILLING TO LICENSE THE SOFTWARE TO YOU, AND YOU MUST DISCONTINUE INSTALLATION OF THE SOFTWARE NOW. IN THIS CASE YOU MUST RETURN THE MEDIUM ON WHICH THE SOFTWARE IS STORED, ALL PACKAGING AND ALL ACCOMPANYING DOCUMENTATION TO BLUE ZINC OR AN APPOINTED DISTRIBUTOR WITHIN 14 DAYS OF RECEIPT AND ANY LICENSE FEE YOU HAVE PAID WILL BE REFUNDED TO YOU.

12. Interpretation

In this License the following terms shall have the following meanings:

- 12.1 "License Fee" means the upfront license fee paid by you to Blue Zinc or its Authorised Distributor for use of the Software in accordance with this License;
- 12.2 "Appointed Distributor" means any company distributing or selling the Software under license from Blue Zinc;
- 12.3 "Use" shall mean and include:

- 11.3.1 utilisation of the Software by copying, transmitting or loading the same into the temporary memory or installing into the permanent memory of a computer, for the processing by the computer of instructions or statements contained in such Software;
- 11.3.2 making no more than two copies of the Software for back-up purposes, program error verification, or to replace defective media;
- 11.3.3 using any Documentation in support of the use permitted under clause 2 of this License;
- 11.3.4 and "Used" shall have a corresponding meaning.

13. License

- 13.1 In consideration of your agreeing to abide by the terms of this License (by installing the Software) and payment of the License Fee, Blue Zinc hereby grants to you a perpetual, non-exclusive and non-transferable license to Use the Software under the terms set out below.
- 13.2 This License entitles the Licensee to load, install and Use the Software on any number of compatible computers, provided that it is used by no more than the number of concurrent users agreed with Blue Zinc.

14. Licensee's Undertakings

- 14.1 The Licensee undertakes not to perform any of the following acts except to the extent permitted by any applicable law:
 - 14.1.1 rent, lease, sub-license or lend the Software;
 - 14.1.2 copy the Software or the Documentation other than for back-up purposes as set out in clause 1.3.2 or as set out in the Documentation;
 - 14.1.3 translate, merge, adapt, vary, modify the Software or Documentation;
 - 14.1.4 disassemble, decompile, reverse engineer or create derivative works based on the whole or any part of the Software;
 - 14.1.5 to assign the benefit of this License to any third party without the prior written consent of Blue Zinc;
 - 14.1.6 make alterations to, or modifications of, the whole or any part of the Software or permit the Software or any part of it to be combined with, or become incorporated in, any other programs.
- 14.2 The Licensee undertakes:
 - 14.2.1 to maintain accurate and up-to-date records of the number and location of all copies of the Software;
 - 14.2.2 to ensure that its employees, agents and other parties who will use the Software are notified of this License and the terms hereof prior to such employee, agent or party using the same and to ensure that such parties use the Software in accordance with the terms of this License;
 - 14.2.3 to reproduce and include the copyright notice of Blue Zinc on all and any copies, whether in whole or in part;
 - 14.2.4 within 14 days after the date of termination or discontinuance of this License for whatever reason to, at Blue Zinc's option, return to Blue Zinc or destroy the Software, the Documentation and all updates, upgrades or copies thereof, in whole and in part, in any form;
 - 14.2.5 to permit Blue Zinc, its Appointed Distributors or representatives, at all reasonable times and on reasonable advance notice, to inspect and have access to any premises at which the Software or the Documentation is being kept or used, to the computer equipment located there, and to any records kept pursuant to this License, for the purpose of ensuring that you are complying with the terms of this License.
- 14.3 The Licensee hereby undertakes to comply with and be bound by all of the terms of 3rd party software licenses contained within the Software (Microsoft .Net, Microsoft SQL Server, Crystal Reports). The following third party open source components are also used – Nhibernate, Fluent NHibernate, Caliburn, CastleProject, Auotmapper, Apache Logging Services, NewtonSoft JSon, Fluent Validation, Notify Property Weaver, Heredar, Open VPN and Graph.

15. Use of Anonymised Data

- 15.1 By entering into this License, you acknowledge and agree that Blue Zinc may collect, process and analyse anonymous use statistics and other technical data (but not, for the avoidance of doubt, any personal data as defined by the Data Protection Act 1998 or any subsequent legislation that supersedes the Data Protection Act 1998 such as the General Data Protection Regulation 'GDPR') for the purposes of product improvement. This includes, without limitation and by

way of example only, analysis of how many users across Blue Zinc's client base are using individual functions and the extent of such use.

16. Copyright

The Licensee acknowledges that any and all of the copyright, trade marks, trade names, patents and other intellectual property rights subsisting in or used or in connection with the Software and the Documentation throughout the world are and remain the sole property of Blue Zinc or its licensors, that rights in the Software are licensed (not sold) to you, and that you have no rights in, or to, the Software or the Documentation other than the right to use them in accordance with the terms of this License.

17. Warranties

17.1 The Licensee acknowledges that:

- 17.1.1 software in general is not error-free and agrees that the existence of such errors in the Software shall not constitute a breach of this License;
- 17.1.2 good data processing procedure dictates that any software be thoroughly tested with non-critical data before relying on it;
- 17.1.3 because of the various hardware and software environments into which the Software may be put, no warranty of fitness for a particular purpose is offered.

17.2 In the event that the Licensee discovers a material error in the Software which substantially affects the Licensee's use of the same (and which is not caused by any modification, variation or addition to the Software not performed by Blue Zinc or which is caused by its incorrect use, abuse or corruption of the Software or by use of the Software with other software or on equipment with which it is incompatible), Blue Zinc shall at its sole option either refund the License Fee or use all reasonable endeavours to correct by patch or new release (at its option) that part of the Software which does not so comply.

17.3 To the extent permitted by law, Blue Zinc disclaims all other warranties with respect to the Software, either express or implied, including but not limited to any implied warranties of quality or fitness for any particular purpose (provided that nothing in this License shall be deemed to effect the statutory rights of consumers where the Licensee is a consumer for the purposes of such statutory rights).

18. Blue Zinc's Liability

18.1 Blue Zinc (except in respect of death or personal injury caused by the negligence of Blue Zinc, its employees, agents or authorized representatives, liability for which shall not be limited) shall not be liable to the Licensee for any indirect, special, incidental or consequential loss or damage (including, without limitation, loss of income, loss of business profits or contracts, business interruption, loss of anticipated savings, loss of information, loss of opportunity, goodwill or reputation or loss of, damage to or corruption of data), whether arising in contract, tort (including negligence), misrepresentation or otherwise.

18.2 Subject to clause 6.1, Blue Zinc's maximum aggregate liability under or in connection with this License, or any collateral contract, whether in contract, tort (including negligence) or otherwise, shall be limited to a sum equal to the License Fee.

18.3 Subject to clauses 6.1 and 6.2, Blue Zinc's liability for infringement of third party intellectual property rights shall be limited to breaches of rights subsisting in the UK.

19. Termination

19.1 Blue Zinc may by notice in writing to the Licensee terminate this License:-

- 19.1.1 if the Licensee is in breach of any term, condition or provision of this License or required by applicable law and fails to remedy such breach (if capable of remedy) within 30 days of having received written notice from Blue Zinc specifying such breach; or
- 19.1.2 in the event that Blue Zinc elects to supply to the Licensee free of charge an up-graded version of the Software which does not result in any material diminution in functionality, in which case such up-graded version of the Software shall be subject to the standard license terms of Blue Zinc at the time of such supply;
- 19.1.3 if a petition for a bankruptcy order to be made against you has been presented to the court (or any similar or analogous action is taken in any other jurisdiction);
- 19.1.4 if (where you are a company) you become insolvent or unable to pay your debts (within the meaning of the Insolvency (Northern Ireland) Order 1989), enter into liquidation (whether voluntary or compulsory), pass a resolution for your winding up, have a receiver or administrative manager, trustee, liquidator or similar officer appointed over the whole or any part of your assets, make any composition or arrangement with your creditors or take or suffer any similar or analogous action in any jurisdiction in consequence of debt, or become unable to pay your debts (within the meaning of the Insolvency (Northern Ireland) Order 1989).
- 19.1.5 If the Licensee, any of their employees or representatives undertake behavior that is found objectionable by Blue Zinc, such as verbal abuse of staff, threats or other unprofessional behavior. Blue Zinc has a duty of care towards their employees to ensure they work in an environment free from such behavior.

19.2 The Licensee may terminate this License at any time by destroying the Software together with all copies.

19.3 Termination, howsoever or whenever occasioned shall be subject to any rights and remedies Blue Zinc may have under this License or under the law.

19.4 Upon termination for any reason:

- 19.4.1 all rights granted to you under this License shall cease;
- 19.4.2 you must cease all activities authorized by this License;
- 19.4.3 you must immediately delete or remove the Software from all computer equipment in your possession and immediately destroy or return to Blue Zinc or its Authorised Distributor (at their option) all copies of the Software then in your possession, custody or control.

20. Data Protection

20.1 The Licensee and Blue Zinc acknowledge that for the purposes of the Data Protection Act 1998 (or any subsequent legislation that supersedes the Data Protection Act 1998 such as the General Data Protection Regulation

'GDPR', the Licensee is the data controller (as defined by section 1(1) of the Data Protection Act 1998 (or any subsequent legislation that supersedes the Data Protection Act 1998 such as the General Data Protection Regulation 'GDPR') and Blue Zinc is the data processor in respect of any personal data (as defined by section 1(1) of the Data Protection Act 1998 or any subsequent legislation that supersedes the Data Protection Act 1998 such as the General Data Protection Regulation 'GDPR', and which relates only to personal data, or any part of such personal data, in respect of which the Licensee is the data controller and in relation to which Blue Zinc is providing services).

- 20.2 Blue Zinc shall process the personal data only in accordance with the Licensee's instructions from time to time and shall not process the personal data for any purpose other than those expressly authorised by the Licensee.
- 20.3 Each party warrants to the other that it will process the personal data in compliance with all applicable laws, enactments, regulations, orders, standards and other similar instruments.
- 20.4 Blue Zinc warrants that, having regard to the state of technological development and the cost of implementing any measures, it will:
 - 20.4.1 take appropriate technical and organisational measures against the unauthorised or unlawful processing of personal data and against the accidental loss or destruction of, or damage to, personal data to ensure a level of security appropriate to:
 - (c) the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and
 - (d) the nature of the data to be protected.
 - 20.4.2 take reasonable steps to ensure compliance with those measures.
- 20.5 The Licensee acknowledges that Blue Zinc is reliant on the Licensee for direction as to the extent to which Blue Zinc is entitled to use and process the personal data.
- 20.6 Blue Zinc may authorise a third party to process the personal data provided such third party's contract is on terms which are substantially the same as those set out in this License and terminate automatically on termination of this License. Where a third party is used to process personal data, Blue Zinc shall ensure all reasonable and appropriate technical and organisational measures are in place to ensure the protection of such personal data.
- 20.7 The Licensee acknowledges that for the purposes of storing any personal data required to fulfil the contract between the Licensee and Blue Zinc, Blue Zinc shall be a data controller (as defined by section 1(1) of the Data Protection Act 1998 or any subsequent legislation that supersedes the Data Protection Act 1998 such as the General Data Protection Regulation 'GDPR'). Blue Zinc shall take all reasonable and appropriate technical and organisational measures are in place to ensure the protection of this personal data pursuant to clause 18.4 above.

21. General

- 21.1 The Licensee shall not assign or otherwise transfer all or any part of the Software or this License without the prior written consent of Blue Zinc.
- 21.2 Failure or neglect by either party to enforce at any time any of the provisions hereof shall not be construed nor shall be deemed to be a waiver of that party's rights hereunder nor in any way affect the validity of the whole or any part of this License nor prejudice that party's rights to take subsequent action.
- 21.3 The parties hereby agree that this License shall be construed in accordance with Northern Ireland Law and submit to the non-exclusive jurisdiction of the courts of Northern Ireland.
- 21.4 This License constitutes the entire understanding between the parties in respect of the Software, and shall supersede and override any prior agreement, understanding, communication or representation whether oral or written.
- 21.5 This License is binding on you and us and on our respective successors and assigns.
- 21.6 Blue Zinc will not be liable or responsible for any failure to perform, or delay in performance of, any of its obligations under this License that is caused by an event outside of its reasonable control.
- 21.7 Blue Zinc make no representations relating to specific compliance with any certifications or externally defined standards and any assumptions made by the user relating to specific performance or compliance of the software is at their sole risk. This includes, but is not limited to, PCI compliance in the UK or any other payment processing or security standards.