

RECENT UPDATES

- Definition of 'SmartVault' in Section 1.4 changed to match updated third party details.

Terms and Conditions of Sale (2023-09-25)

1 ABOUT THESE TERMS AND CONDITIONS

1.1 In these terms and conditions, the terms "we" and "us" mean Acorah Software Products Limited (ASPL), "You" means You the customer and reference to "terms and conditions" means these terms and conditions. These terms and conditions shall (with any EULA and/or CSA where appropriate) constitute the entire contract and agreed terms between Us and You for the supply of Products and Services. No other terms and conditions shall apply, as further described in Section 18.2. These terms and conditions cannot be varied unless We advise You in writing or by email.

1.2 In addition to these terms and conditions, the use of Products and Services may also be subject to the terms of an End User Licence Agreement ([EULA](#)). If the use of Products and Services are subject to the terms of a EULA, You will be required to agree to the EULA and its terms prior to installation of the Products or commencement of the Service. For the avoidance of doubt, use of a Service or Product is strictly subject to these terms and conditions and any EULA and/or applicable CSA.

1.2.1 You will normally be able to review and agree to the EULA before or during the installation of a Product (see the definition of Product in Section 1.4).

1.3 In addition to these terms and conditions, the use of Products and Services may also be subject to the terms of a Cloud Service Agreement ([CSA](#)). If the use of Products and Services are subject to the terms of a CSA, You will be required to agree to the CSA and its terms prior to installation of the Products or commencement of the Service. For the avoidance of doubt, use of a Service or Product is strictly subject to these terms and conditions and any CSA and/or applicable EULA.

1.3.1 You will normally be able to review and agree to the CSA during the purchase process for Cloud Product (see the definition of Cloud Service Agreement in Section 1.4).

1.4 In these terms and conditions the following expressions shall have the meanings respectively ascribed:

"Additional User Licence" means a licence purchased to increase the number of users that can access Your TaxCalc Accounts Production and/or Cloud Connect software at a time;

"Anti-Money Laundering Credit" means a single pre-payment of usage of the Anti-Money Laundering Identity Checking Service, which is consumed at the point a new Anti-Money Laundering Identity Check is performed within the Software or via the Website;

"Application Module" means a particular portion of the Software, also usually a distinct Practice Product. Client Hub, Accounts Production, Tax Return Production, VAT Filer, Company Incorporator and Companies House Forms are all Application Modules;

"CD" means compact disc, a physical media on which the relevant Product is supplied;

"Cloud Service Agreement" or "CSA" means a set of additional terms and conditions that apply to Your use of a Cloud Product or Service that You purchase from us, together with its Attachments under Section 21 (Attachments) of that agreement;

"Contract" means these terms and conditions together with Your Order and, where applicable, any EULA or CSA;

"Consumer" means when You purchase and use Products and Services from Us that may be used by You **except** in assisting You in providing chargeable services to third parties;

"Consumer Product" means a Product that may be used by You **except** in assisting You in providing chargeable services to third parties (as opposed to a Practice Product);

"Credit Note" means a credit note issued by Us to You in respect of a credit against the value of any previously purchased Products or Services;

"Customer" means anyone who has purchased and uses Products and Services from us, whether Consumer Product or Practice Product;

"Direct Debit" means an instruction from you to your bank or building society that authorises the organisation you want to pay (ASPL) to collect varying amounts from your account – but only if you've been given advance notice of the amounts and dates of collection. Direct Debits set up with ASPL will always be part of a Pay By Instalment Arrangement;

"Direct Debit Guarantee" means the Bacs-regulated guarantee that all protects you in the rare event that there is an error in the payment of your Direct Debit. It cannot be used to address contractual disputes between you and ASPL. It can be found here:

<https://www.directdebit.co.uk/direct-debit-explained/direct-debit-guarantee/>;

"Download" means obtaining the Product via download over the internet from the TaxCalc Website in accordance with these terms and conditions and any EULA;

"End User Licence Agreement" or "EULA" means a set of additional terms and conditions that apply to Your use of the Product or Service that You purchase from us;

"Intellectual Property Rights" means all vested and future intellectual property rights including but not limited to copyright, trade-marks, design rights, patents, know-how, trade secrets, inventions, semiconductor topography rights, and any applications for the protection or registration of these rights and all renewals and extensions thereof existing in any part of the world, and all other intellectual property rights protected by any applicable law;

"Incorporation Credit" means a single pre-payment of usage of the Company Incorporator Module, which is consumed at the point a new Incorporation is created within the Software;

"Limited Credit Note" means a credit note issued by Us to You in respect of a credit against the value of any previously purchased Products or Services with an expiry date set to 12 (twelve) months following issue;

"New Version" means any new version of a Product which We publicly market and offer for purchase from time to time in the course of our normal business, being a version which contains such significant differences from the previous versions as to be generally accepted in the marketplace as constituting a new Product (for example, a Product designed for a new Product Year);

"Order" means an order placed by You in accordance with these terms and conditions (see Section 2 for more details);

"Pay By Instalment Arrangement" means an arrangement between ASPL and You to split payment for a Product or Service into instalments. This agreement will be in written form (often an email) and will specify the payment dates, periods and amounts;

"Practice Product" means a Product that may be used by You **including** in assisting You in providing chargeable services to third parties (as opposed to a Consumer Product);

"Privacy Policy" means the [Privacy Policy](#) that defines ASPL's treatment of customer data, as displayed on the TaxCalc Website;

"Product" means any product listed on the TaxCalc Website or otherwise, which We agree to supply to You on these terms and conditions and may include Services;

"Product Year" means the financial or tax year for which the Product is designed;

"Services" means any chargeable service listed on the TaxCalc Website which We agree to supply to You on these terms and conditions;

"SmartVault" is an online platform operated by SmartVault Software Ltd for managing and securely sharing files. TaxCalc is an approved reseller of SmartVault products.

"Software" means a Product in the form of computer software that is supplied to You in accordance with these terms and conditions;

"TaxAssist Franchisee" means a Customer who is also a franchisee of the TaxAssist organisation.

"TaxCalc Website" means our web site for customers, the web address of which is <http://www.taxcalc.com>;

"Update" means a release of the relevant Product which corrects faults, adds functionality or otherwise amends or upgrades the Software but which does not constitute a New Version;

"Working Day" means a day other than a Saturday, a Sunday, a public holiday in the United Kingdom or any other shut-down period as advertised on the TaxCalc Website from time to time.

1.5 If you are a TaxAssist Franchisee, and only if you are a TaxAssist Franchisee, the amendments to these Terms and Conditions described in the [TaxAssist Attachment](#) will apply.

1.6 In addition to these terms and conditions, the use of the Anti-Money Laundering Identity Checking Service is subject to the terms of the Equifax Customer Licence ([ECL](#)). If the use of Products and Services are subject to the terms of the ECL, You will be required to agree to the ECL and its terms prior to commencement of Anti-Money Laundering Identity Checking Service. For the avoidance of doubt, use of the Anti-Money Laundering Identity Checking Service is strictly subject to these terms and conditions and any CSA and/or applicable EULA.

2 PLACING YOUR ORDER

2.1 Orders may only be placed by:

2.1.1 creating a customer account on the TaxCalc Website, adding Products or Services to Your basket and clicking on the appropriate submission button; or

2.1.2 contacting Us using the telephone number as displayed on the TaxCalc Website within working hours as displayed on the TaxCalc Website.

We will accept Orders placed by other means only at our discretion. Extended office hours may apply during the month of January and You should refer to the TaxCalc Website for details.

2.2 Any promotional offer will only be honoured by Us if the offer is clearly specified by You before an Order is placed.

2.3 Unless otherwise agreed between the parties in writing, all Products and Services must be paid for in full prior to use and no Service or Product shall be made available or Order despatched until cleared payment in full has been made.

2.3.1 Businesses with a Pay By Instalment Arrangement: If You have arranged a Pay By Instalment Arrangement with ASPL, Your payment in full will be handled by a payment schedule as described in Section 4.5. In this instance, Your licence will commence with the first cleared payment.

2.3.2 At ASPL's discretion, We may also initiate a licence independent of payment terms. In this instance, Your licence will commence at a time as as advised in writing by ASPL.

2.4 Any Order is strictly subject to these terms and conditions and any applicable EULA and CSA, and the placing of an Order in accordance with this Section 2 is deemed acceptance of and agreement to these terms and conditions.

2.5 During the term of this Contract, You may place further Orders for additional Products (which may include add-on Software for Products which You have already purchased) and/or Services. Any such Orders and the Products and/or Services provided pursuant to them will be subject to and provided in accordance with the Contract.

2.6 Regarding Anti-Money Laundering Credits.

2.6.1 Anti-Money Laundering Credits purchased prior to 1 April 2020 will now expire and become invalid on 31 March 2024 if they are not consumed within that time period.

2.6.2 Anti-Money Laundering Credits purchased from 1 April 2020 onwards will expire and become invalid if they are not consumed (e.g. left unused, unclaimed or dormant) for a period of 12 (twelve) months following purchase.

2.6.3 All Anti-Money Laundering checks require prior purchase of Anti-Money Laundering Credits from the TaxCalc Website. One Anti-Money Laundering Credit bought by You is consumed at the point You perform an Anti-Money Laundering check using the Anti-Money Laundering Identity Checking Service, whether that check is performed using the Software or the TaxCalc Website.

3 PRICES

3.1 The price that You will pay for the Products or Services will be the price quoted on the "My Order" page on the TaxCalc Website, after the application of an entered promotional code, should one apply.

3.2 The price of Products or Services is subject to Value Added Tax (VAT) and is payable on all Products and Services supplied by Us (unless prohibited by law). The rate of VAT that You will be charged depends upon the country where Your software is bought and whether You are deemed to be a consumer or a business customer.

3.3 The rate of VAT that You will be charged depends upon the country where Your Software is bought and whether You are deemed to be a consumer or a business customer.

3.3.1 If You are a Consumer the price of Products or Services stated on the 'My Order' page of the TaxCalc Website is inclusive of Value Added Tax (VAT).

3.3.2 If You are a business customer, the price of Products or Services stated on the 'My Order' page of the TaxCalc Website is exclusive of VAT.

3.3.3 During the sales process, You may be asked to confirm Your place of residence and/or be asked to contact Us to provide additional evidence as to the country in which You will enjoy the use of Your software licence.

3.3.4 VAT shall only be exempted under specific circumstances in accordance with UK and EU law.

3.3.5 Any case for VAT exemption must be made at the point of ordering a product.

3.4 In the event that Products or Services are to be posted or delivered on physical media, delivery costs are payable by You in advance of despatch and details of these costs are set out in Your Order. Not all Products may be delivered – some are available by Download only.

3.5 Note that any additional charges by third parties are not included in the prices presented by ASPL and would be charged by the third party separately. For example, the registration fee charged by Companies House to incorporate a new company is not included in the price of TaxCalc Company Incorporator or its Incorporation Credits.

4 PAYING FOR YOUR PRODUCTS

4.1 In order to pay for Your Products and/or Services using the TaxCalc Website, You must have created a customer account with Us and be successfully logged in.

4.2 You may pay for Your Products by the following methods:

4.2.1 by debit or credit card; or

4.2.2 by electronic payment or wire transfer directly into our bank account; or

4.2.3 by cheque (as per Section 4.8 only); or

4.2.4 by Direct Debit.

4.3 You must pay for Your Order in British Pounds Sterling. No other currency will be accepted.

4.4 Paying by debit or credit card; or paying by Direct Debit.

4.4.1 If You are paying by debit or credit card, You must supply Your debit or credit card details when You place Your Order.

4.4.1.1 Your card will be charged immediately.

4.4.1.2 We will not despatch or make available for Download any Products until Your card issuer has authorised the use of Your card for payment of the Products and/or Services Ordered. If We do not receive such authorisation, We will let You know.

4.4.1.3 We reserve the right to verify the identity of the credit card holder by requesting appropriate documentation.

4.4.1.4 We will treat your debit or credit card details as per Section 4.9 of our Privacy Policy.

4.4.2 If You are paying by Direct Debit, You must supply Your Direct Debit details when You place Your Order.

4.4.2.1 The Direct Debit will take up to 10 working days to set up. Note that if your first payment is due within 10 working days, it may be necessary to arrange the first payment using an alternate payment method. See Section 4.5 for more details.

4.4.2.2 We will treat your Direct Debit details as per Section 4.9 of our Privacy Policy.

4.5 Businesses with a Pay By Instalment Arrangement: If Your Practice Product purchase exceeds £800 net of VAT or is purchased with the Cloud Connect service, You may at ASPL's discretion be offered the opportunity to pay in instalments.

4.5.1 There is no additional charge for paying with a Pay By Instalment Arrangement and You will be invoiced for the full amount.

4.5.1.1 If VAT registered and the purchase was arranged before 1 December 2017, You may claim the VAT off the invoice in full. If VAT registered and the purchase was arranged from 1 December 2017, You may only claim the VAT according to the payment schedule.

4.5.1.2 If the purchase was arranged from 1 December 2017 or later, the tax point is the date the payment is due or the date payment is received by ASPL (whichever occurs first).

4.5.1.3 Use of a Pay By Instalment Arrangement is not compatible with any early renewal discount on a product's price and any such discount will not be applied if the Pay By Instalment Arrangement is used.

4.5.1.4 Use of a Pay By Instalment Arrangement is not compatible with any consultancy or implementation Services and the cost for any such Services will not be applied to the Pay By Instalment Arrangement. All such costs must be paid in advance.

4.5.2 A Pay By Instalment Arrangement may only be arranged using either:

- the debit or credit card payment method; or
- the Direct Debit payment method.

4.5.3 A Pay By Instalment Arrangement using the debit or credit card payment method uses a form of continuous payment authority granted to ASPL specifically for the purpose of claiming payment for the agreed Practice Product(s). ASPL will only issue instruction to recur payment according to the Pay By Instalment Arrangement. ASPL does not retain the card details – these are kept by the payment card processor. ASPL utilises an authorisation token to enact recurring payments.

4.5.4 A Pay By Instalment Arrangement using the Direct Debit payment method operates under a Pay By Instalment Arrangement and in accordance with the Direct Debit Guarantee.

4.5.5 Once the Pay By Instalment Arrangement has been set up, payments will automatically be collected in accordance with the schedule set out in the Pay By Instalment Arrangement. Each time a payment is required under the schedule, it will be debited from Your card (should You be using the debit or credit card payment method) or Your account (should You be using the Direct Debit payment method).

4.5.5.1 The default schedule for a Pay By Instalment Arrangement for a Product or Service is for 12 (twelve) monthly payments, each payment being one twelfth of the total charge. An alternative schedule may be arranged, at our discretion.

4.5.5.2 Note that if the licence start date relating to a Pay By Instalment Arrangement using the Direct Debit payment method is 11 working days or less in the future, the first payment may need to be arranged using a one-off credit or debit card payment. This allows time for the Direct Debit agreement to be set up. The remaining payment schedule can be claimed via the Direct Debit payment method.

4.5.6 If You fail to make a Pay By Instalment payment by the date specified in the Pay By Instalment Arrangement the following will occur:

4.5.6.1 Failing to pay any payment will result in the Product or Service being locked by the end of next working day, until payment is made. Where a Product or Service forms part of a larger product, such as in the case of software being launched from the TaxCalcHub application, all such connected Products will be locked.

4.5.6.2 In order to unlock a Product or Service where its Pay By Instalment Arrangement has lapsed, You must contact ASPL and arrange payment of the missing balance.

4.5.6.3 ASPL will email You in the event of Your Pay By Instalment Arrangement payment failing – for example, if Your card details have expired or sufficient funds were not available. Failure of ASPL to notify of a Pay By Instalment Arrangement failing is without prejudice to ASPL's ability to lock Products under subsection 4.5.6.1 or any other right or remedy which ASPL may have. ASPL is not liable for any incidental fees incurred by You from a third party (such as Your bank) should a scheduled Direct Debit payment fail.

4.5.6.4 ASPL does not keep a record of Your card details. It is Your responsibility to contact ASPL in regard to any card cancellation or upcoming card expiry during the term of the Pay By Instalment Arrangement.

4.5.7 You can view the agreed Pay By Instalment payment schedule in Your account on the TaxCalc Website that will show the balance outstanding.

4.5.8 A Pay By Instalment Arrangement must be completed in its entirety and may not be cancelled early unless specifically agreed in writing with ASPL.

4.5.8.1 Note that regardless of payment method, this means that the payment schedule will continue until the Pay By Instalment Arrangement schedule concludes.

4.6 The Cloud Connect Service may be provided for under the terms of a Pay By Instalment Arrangement as per Section 4.5.

4.6.1 Save as otherwise expressly provided in the CSA or these terms and conditions, these charges are deemed as fixed for the entire Term and fully inclusive of any and all activities necessary to supply the Cloud Connect Service and all direct and indirect costs, taxes, charges or expenses relating to the Service.

4.6.2 Cancellation of the Service does not correlate with cancellation of the Pay By Instalment Arrangement unless specifically agreed in writing with ASPL.

4.7 If You are paying by electronic payment or wire transfer directly into our bank account:

4.7.1 A "request for payment" document will be made available in Your customer account on the TaxCalc Website. You will be informed of the bank account name, sort code and account number to make payment to. The "request for payment" payment amount will remain valid for 14 (fourteen) days.

4.7.2 If payment is not received within 14 (fourteen) days, the "request for payment" will be updated automatically and the price may therefore change (for example, if an early renewal discount period elapses).

4.7.3 We will not despatch or make available for Download any Products until Your payment has completed the clearing process. You should allow a minimum of 1 (one) complete Working Day from the date that You instruct Your bank to make payment.

4.8 Payment by cheque is only at our discretion and can only be requested by placing Your Order by telephone. You will be informed of the account name to make payment to by our telephone operator and a "request for payment" document will be made available in Your customer account on the TaxCalc Website. We will not despatch or make available for Download any Products until Your payment has completed the clearing process. You should allow a minimum of 7 (seven) complete Working Days from the date that We receive Your cheque.

4.9 Our offices process manual payments during Working Days only.

4.10 Once Your payment has cleared and been processed by us, You will be issued electronically with an Invoice. You can access Your Invoice by logging into Your customer account on the TaxCalc Website and choosing the "Account History" page. We will also send the Invoice and ancillary documentation to You the e-mail address You have provided Us with during the customer account creation process. Please note We do not automatically send paper copies of these documents to You and will only agree to do so at our absolute discretion.

5 DELIVERY OF YOUR PRODUCTS

5.1 Where applicable, if Your Product is to be delivered on CD, we will deliver to the address as shown on Your customer account on the TaxCalc Website. Products will be despatched using the Royal Mail postal services and sent using first class post. We will not use any other methods to deliver Your Product. We cannot track Your Products once they have entered the postal system but if

You do not receive Your CD within 7 (seven) working days, please contact our sales team using the appropriate telephone number as displayed on the TaxCalc Website.

5.2 Please note that title and risk pass on despatch. Despatching any Product by Royal Mail or by any other carrier is done so entirely at Your risk. You would be responsible for any additional charges incurred in order to re-despatch.

5.3 All Products successfully purchased by You will be made available for Download from the TaxCalc Website. You can access the Download by logging into Your customer account and selecting the "My Products and Services" page.

5.4 Any Service which You order from Us will be provided in accordance with that Service's parameters for time and delivery method, as stated on the TaxCalc Website, the Cloud Service Agreement or communicated by direct email.

6 UPGRADING AND UPDATING

6.1 Some Products sold by Us may be capable of being upgraded to more advanced versions, for example, upgrading a Consumer Product for tax to a Practice Product for tax.

6.2 Under normal circumstances, or unless specifically agreed with TaxCalc, You cannot:

6.2.1 downgrade a Product that has been purchased by You to one with lesser functionality, for example downgrading from a Practice Product to a Consumer Product; or

6.2.2 upgrade from one Consumer Product or Application Module to another; or

6.2.3 upgrade a Consumer Product from one Product Year to a different Product Year, for example, upgrading *Individual 6 2013* to *Individual 6 2014* (as this would be a New Version).

6.3 The price paid for an upgrade will be displayed on the TaxCalc Website at the time that it becomes available. We reserve the right to change or alter our pricing policies in respect of any upgrade at any time without giving notice.

6.4 We will from time to time provide Updates to the Software, in order to maintain the purchased Product throughout its licence period.

6.4.1 If You are a Consumer, You agree to install any Updates that We release in respect of the Software, when required throughout Your perpetual licence.

6.4.2 If You are a Practice customer, You agree to install any Updates that We release in respect of the Software, when required throughout the duration of Your licence period (as specified in Your Order, usually 12 (twelve) months).

6.4.3 Further information regarding updates to the Software can be found in Section 9 of the [EULA](#).

6.4.4 Further information regarding updates in connection with the Cloud Connect Service can be found in Section 4 of the [CSA](#).

6.4.5 Further information regarding updates in connection with the Anti-Money Laundering Identity Checking Service can be found in the Equifax Customer Licence ([ECL](#)).

7 ACKNOWLEDGMENT, CANCELLATION AND REFUNDS

7.1 You acknowledge and understand that We are not professional advisers for matters of a financial, tax, data protection, anti-money laundering or any other nature. You also acknowledge that it is Your responsibility and You agree that You shall be responsible for ensuring that any Product purchased by You is suitable for Your requirements and is compatible with Your existing IT and other systems, practices (whether personal or business) and business. A request for refund citing unsuitable software will be refunded only at our discretion. Any conditions or warranties that may be implied by statute or otherwise that any Product is fit for a particular purpose or of satisfactory quality is hereby excluded to the extent legally permissible by law.

7.2 If You are a Consumer and are not buying Products or Services on behalf of a business, there are certain circumstances in which You may withdraw from the Contract and these are set out here. This right to withdraw does not apply to business buyers.

a) You may withdraw Your Order for Products or Services at any time up to the end of the 14th (fourteenth) working day after You have received the Products or Your Order for Services is concluded. You do not need to give Us any reason for withdrawing Your Order nor will You have to pay any penalty.

b) The only circumstances in which You cannot withdraw Your Order are:

- i. where You have taken the Products You have Ordered (or the ones in relation to which You want to withdraw) out of the sealed package in which they were delivered; or
- ii. You have begun to download Software You have ordered from our website; or
- iii. You have commenced use of Services You have ordered.

c) To withdraw Your Order You must notify Us either:

- i. in writing at the following address: TaxCalc, Rubra One, Mulberry Business Park, Fishponds Road, Wokingham, RG41 2GY; or
- ii. by emailing Us using the email address(es) as displayed on the TaxCalc Website.

d) If You have received the Products before You withdraw Your Order then, unless You have lost Your right to withdraw because You have taken the goods out of their sealed package, You must send them back to Us at Your own cost and risk. If You withdraw Your Order but We have already processed the Products for delivery and You have received them, You must not unpack the Products when they are received by You and You must send them back to Us at Your own cost and risk as soon as possible.

e) Once You have notified Us that You are withdrawing Your Order, any sum debited to Us from Your payment card will be re-credited to Your account or, if You have paid by cheque, We will send a cheque to You in each case as soon as possible and in any event within 30 (thirty) days of Your Order PROVIDED THAT the Products in question are returned by You and received by Us in the condition they were in when delivered to You.

7.3 Subject to Section 7.2 all refunds are made at Our absolute discretion and without prejudice to Your statutory rights.

8 HOW WE WILL REFUND YOU

8.1 Subject to Section 7, if We agree to refund You part or the entire original price paid, We shall do so by crediting Your TaxCalc account with a Credit Note.

8.2 At the time of processing the refund, We shall issue You with a Credit Note. You can access Your Credit Note by logging into Your customer account on the TaxCalc Website and choosing the "Account History" page. We will also send the Credit Note to You by e-mail where You have indicated an e-mail address during the customer account creation process. We do not automatically send paper copies of Credit Notes to You and will only agree to do so at Our absolute discretion.

8.2.1 Credit Notes that are unused, unclaimed or dormant for a period of 6 (six) years or longer will expire and become invalid, unless specific arrangements are confirmed with ASPL in advance, in writing.

8.2.2 ASPL may, at its discretion, issue a Limited Credit Note in lieu of a normal Credit Note. A Limited Credit Note is subject to the same restrictions as a normal Credit Note except that it will expire and become invalid if it is unused, unclaimed or dormant for a period of 12 (twelve) months.

8.3 ASPL may also refund You in one of the following methods, at Our absolute discretion:

8.3.1 by crediting Your debit or credit card if this was the method that You originally paid for Your Order; or

8.3.2 by crediting a bank account of Your choosing by electronic payment in all other circumstances.

8.3.3 We will process a refund by cheque at Our discretion.

8.4 If You are a Consumer, You have the rights as described in 7.2 to a refund, limited to the specified conditions.

8.5 If You are not a Consumer or have bought Products or Services on behalf of a business, We reserve the right to levy an administrative charge at Our discretion. No such charge will apply to Consumers.

8.6 Service Credits accrued through usage of the Cloud Connect Service are not refunds and are described in Section 7 of the [CSA](#).

9 USE OF OUR PRODUCTS AND SERVICES, INTELLECTUAL PROPERTY AND CHARGING THIRD PARTIES

9.1 ASPL and the Customer acknowledge that all Intellectual Property Rights belonging to a Party outside of this Contract shall remain vested in that Party.

9.2 All Intellectual Property Rights related to a third party's content and used by the Customer shall remain vested in such third party, for example regarding elements described in Section 19 of the [EULA](#). The Customer shall not be licensed or transferred with any right on such third party content unless agreed by the Customer with such third party.

9.3 You agree and understand that unless otherwise expressly stated, the Products are licensed strictly on the terms that they are for the personal and private use of the entity to which they are licensed and that unless or otherwise permitted expressly by us, You are not entitled to use any Product to assist You in the charging of third parties for services rendered by You.

9.4 If You are using a Product other than a Practice Product to assist You in the charging of third parties for services rendered by You:

- a) We will immediately cease in the provision to You of any ongoing telephone support; and
- b) We will immediately disable Your customer account on the TaxCalc Website; and
- c) We will immediately block Your product licence; and
- d) the exercise of any of the remedies stated at (a) to (c) above is without prejudice to any other right or remedy which may be available to Us at law.

9.5 In the case of the Anti-Money Laundering Identity Checking Service, you are expressly forbidden from performing this service on behalf of third parties, or to allow third parties to use your access to the Anti-Money Laundering Identity Checking Service.

10 E-MAIL AND TELEPHONE SUPPORT

10.1 Some, but not all, of Our Products and Services may include e-mail and/or telephone support for the Product or Service that You have purchased. Where applicable, such support is provided subject to Section 9 above and at Our own discretion. The terms and extent of any support shall be determined by Us and We reserve the right to vary the extent and nature of support at any time.

10.1.1 Entitlement to support of Consumer Products is restricted to the scope of the Product being advised upon.

10.1.2 Entitlement to support of Practice Products is restricted to the scope of the Product being advised upon and the duration of the Product's licence.

10.1.3 There are no additional charges for e-mail and/or telephone support, except under the following circumstances:

10.1.3.1 Data and database migration services are charged at a rate determined upon application to a given migration service.

10.1.3.2 Rectifying an issue related to third party software interacting with the Software's database is charged at £150 per hour, with an initial deposit of £150.

10.1.4 When providing Support for SmartVault products, We may also liaise with SmartVault and transfer data with them specifically in relation to Your issue (Section 9 of our Privacy Policy for more details).

10.1.5 When providing Support for Equifax products, We may also liaise with Equifax and transfer data with them specifically in relation to Your issue (see Section 5.3 of our Privacy Policy and Section 2.2 of the Equifax Customer Licence ([ECL](#)) for more details).

10.2 The e-mail and telephone support service shall consist of advice and guidance in relation only to sales, installation and usability issues of Our Products and Services.

10.3 In providing e-mail support, We will attempt to resolve Your query when You first contact Us although We may require additional information from You. We cannot guarantee resolution of Your queries.

10.4 We will attempt to resolve Your query when You first call us. On occasion, We may need to return Your call in order to suggest a solution. We cannot guarantee resolution of Your queries.

10.5 The telephone support service is normally available during the hours advertised on the TaxCalc Website. Extended office hours may apply during the month of January and You should refer to the TaxCalc Website for details. We will endeavour to maintain a reasonable level of support. However, We reserve the right to vary the hours of support We provide at any time and without giving You prior notice.

10.6 The access to support, together with any applicable e-mail address to send correspondence to and telephone number to call are as displayed on the TaxCalc Website.

10.7 We do not generate revenue from telephone support service call charges. By default, the call charges will be at or below the basic rate, as determined by Your own call plan with Your service provider, and therefore dependent on Your call plan for contact from abroad or via mobile device.

10.8 In order to provide support, we necessarily will ask and require accurate answers to security and identification questions, before commencing with anything other than general advice.

10.9 This security will, in the case of users of our Cloud Product or other Practice users that have requested it, be upgraded to 'advanced security', which implements additional layers of security.

10.10 In all cases, We will not circumvent our own security procedures, regardless of circumstance.

10.11 In all cases, We will not tolerate verbal and/or written abusive language during correspondence with our staff or threats against their personal safety. As a responsible employer, we have a duty of care to our staff and take such matters seriously. Such instances may at Our discretion lead to the termination of Your licence, as per Section 8.3 of the EULA, and may also include informing the relevant authorities.

10.12 In all cases, You agree and understand that We may store, process and use data collected from You for the purposes of providing support as set out in our [Privacy Policy](#).

10.13 Note that calls to (and originating from) TaxCalc may be recorded for quality and training purposes, as per Section 5 of our [Privacy Policy](#).

11 OUR LIABILITY

11.1 These terms and conditions set out the full extent of our obligations and in respect of the supply of Products, the performance of any Services and the performance of telephone support.

11.2 Any warranty, condition or other term arising out of or in connection with the supply of Products and/or the provision of Services which might otherwise be implied into or incorporated in these terms and conditions, Contract by statute, common law, laws applicable in the country where You purchased the Products or Services or otherwise (including without limitation any implied term as to quality, fitness for purpose, reasonable care and skill) is hereby expressly excluded to the maximum extent permitted by law.

11.2.1 In particular, We will not be responsible for ensuring that the Products are suitable for Your purposes.

11.2.2 A Product's related features are listed with that Product on the TaxCalc Website.

11.2.3 Any feature or Product labeled, advertised or described as 'beta' is prototypical and We will not be responsible for the performance or nonperformance of part or whole of such, nor of it being suitable for Your purposes. You agree to use all such 'beta' areas at Your own risk.

11.3 Nothing in the Contract shall limit or exclude our liability (i) for death or personal injury caused by our negligence or (ii) for fraud or (iii) any breach of the obligations implied by applicable compulsory national laws as to title or (iv) any liability which cannot be excluded by law.

11.4 Subject to Section 11.3 We will not be liable under the Contract for any loss of income, loss of profits, loss of contracts, loss of data, loss of privacy, disclosure of information (including harm, damage or loss that may result from Your transmission of any information to Us in any medium) or for any indirect or consequential loss or damage of any kind howsoever arising and whether caused by tort (including negligence), breach of contract or otherwise.

11.4.1 In the case of Consumers, We only supply the Software and Services to You for Your domestic and private use and You agree not to use the Software or Services for any commercial, business or re-sale purposes, and We have no liability to You for any loss of profit, loss of business, business interruption or loss of business opportunity.

11.4.2 In the case of Consumers, subject to Section 11.3, if We fail to comply with this Contract, We are responsible for loss or damage You suffer that is a Contract result of our breach of this Agreement or our negligence, but We are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if they were an obvious consequence of our breach or if they were contemplated by You and Us at the time We entered into this Contract.

11.5 Subject to Sections 11.3 and 11.4, under no circumstances shall our total aggregate liability to You (however arising) under or in relation to the Contract, including (but not limited to) liability for breach of contract, misrepresentation (whether tortious or statutory), tort (including but not limited to negligence), breach of statutory duty, or otherwise, exceed the amount payable by You in respect of the Product and/or Services in respect of which the claim relates.

12 CONTACTING US

12.1 You can contact us:

- a) by telephoning Us within working hours as displayed on the TaxCalc Website and using the number as displayed on the TaxCalc Website; and
- b) by post at the head office address specified in Section 7.2(c) and as displayed on the TaxCalc Website; and
- c) by emailing Us using the email address(es) as displayed on the TaxCalc Website.

12.2 When contacting us, it will assist Us if You can quote Your customer account number.

12.3 You acknowledge that You only receive the entitlement to email/telephone support in regard to certain Products and Services (see Section 10). Such entitlements will be displayed on the TaxCalc Website.

13 DATA PROTECTION

13.1 By placing Your Order, You agree and understand that We may store, process and use data collected from You for the purposes of processing Your Order and as otherwise set out in our [Privacy Policy](#).

13.2 The [Privacy Policy](#) defines personal data where ASPL is the data controller, as per the General Data Protection Regulation (GDPR) and may be amended from time.

13.3 Where You have also agreed to a CSA, [Attachment 3 \(Data Protection\) of the CSA](#) describes the treatment of data where ASPL is the data processor.

13.4 In addition, our [Information Security Policy](#) describes our approach to data security and our commitment to secure practices in general.

13.5 In regard to Equifax products, You remain the Data Controller of Your data. Otherwise, the Equifax Customer Licence ([ECL](#)) governs Equifax's agreements with You and Your usage of the Anti-Money Laundering Identity Checking Service.

14 CIRCUMSTANCES BEYOND OUR CONTROL

14.1 We will make every effort to perform our obligations under this Contract. However, We cannot be held responsible for delays or failure to perform if such delay or failure is caused by any circumstance beyond our reasonable control. In the event of a delay, We will perform our obligations as soon as reasonably possible.

15 GOVERNING LAW AND JURISDICTION

15.1 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (whether contractual or non-contractual, including tort, breach of statute or regulation or otherwise) shall be governed by and construed in accordance with the legislation of laws of England and Wales and subject to the exclusive jurisdiction of the English Courts. In case the Customer is a consumer, the above choice of the law shall apply to the extent permitted by the applicable law. The present Section 15.1 shall apply without prejudice to the mandatory applicable data protection legislation.

16 ARBITRATION AND MEDIATION

16.1 Any dispute arising out of or in connection with this Contract shall, at first instance, be referred to a mediator for resolution. The parties shall attempt to agree upon the appointment of a mediator, upon receipt, by either of them, of a written notice to concur in such appointment. Should the parties fail to agree within 14 (fourteen) days, either party, upon giving written notice, may apply to the President or the Vice President, for the time being, of the Chartered Institute of Arbitrators, for the appointment of a mediator.

16.2 Should the mediation fail, in whole or in part, either party may, upon giving written notice, and within 28 (twenty-eight) days thereof, apply to the President or the Vice President, for the time being, of the Chartered Institute of Arbitrators, for the appointment of a single arbitrator, for final resolution. The arbitrator shall have no connection with the mediator or the mediation proceedings, unless both parties have consented in writing. The arbitration shall be governed by both the Arbitration Act 1996 and the Controlled Cost Rules of the Chartered Institute of Arbitrators (2000 Edition), or any amendments thereof, which Rules are deemed to be incorporated by reference into this Section. The seat of the arbitration shall be England and Wales, and the language used will be English.

17 NOTICES

17.1 Notifications from ASPL concerning the Software, any Service and/or these [terms and conditions will be posted on the TaxCalc Website](#).

17.2 The most current version of these Terms and Conditions can be located online at www.taxcalc.com/tnc.

17.3 You agree that it is Your sole responsibility to regularly and routinely visit our website for notices concerning the Software and/or modifications to these Terms and Conditions, and to ascertain how Your use of the Software may be impacted. You agree to receive service-level communications from ASPL electronically and agree that all agreements, notices, disclosures and other communications that ASPL provides to You electronically satisfy any legal requirements that such communications be in writing.

17.4 ASPL may give You notification using other means such as email, post and/or telephone. To provide notice, ASPL will use the contact and/or registration information (if any) as provided by You. To ensure that You receive notices timely, You agree that it is Your sole responsibility to promptly notify ASPL of any change to Your contact and/or registration information (for example, your business address, business type and/or business name).

17.5 Any notification provided by You to ASPL under this agreement must be made by email to support@taxcalc.com or by post or telephone in accordance with the contact details provided on <http://www.taxcalc.com/contactus>.

18 FINAL PROVISIONS

18.1 Assignment: Neither Party may assign to third parties the present Contract or any part of it without prior consent of the other party. Either party shall have the right to assign any or all of its rights and obligations under this Contract in whole or in part to its group or to the successor to the whole or a part of party's business, subject to such entity or successor undertaking in writing to the other party that it will perform all assigning party's obligations under this Contract.

18.2 Entire Agreement: These Terms and Conditions, EULA and/or CSA (together with all other documents to be entered into pursuant to it) sets out the entire agreement and understanding between the Parties, and supersedes all proposals and prior agreements, arrangements and understandings between the Parties, relating to its subject matter.

18.2.1 Each party acknowledges that in entering into this Contract it has not relied upon any oral or written statements, collateral or other warranties, assurances, representations or undertakings which were made by or on behalf of the other party in relation to the subject-matter of this Contract at any time before its signature (together "Pre-Contractual Statements"), other than those which are set out in this Contract.

18.2.2 Each party hereby waives all rights and remedies which might otherwise be available to it in relation to such Pre-Contractual Statements.

18.2.3 Nothing in this Section shall exclude or restrict the liability of either party arising out of its pre-contract fraudulent misrepresentation or fraudulent concealment.

18.3 To the extent the terms of any Section of these Terms and Conditions of Sale conflict with the terms of the EULA and/or any CSA, the Terms and Conditions of Sale shall prevail.

18.4 No partnership or agency: Nothing in these Terms and Conditions, EULA and/or CSA shall be deemed to constitute a partnership between the Parties, nor constitute either Party the agent of the other party for any purpose.

18.5 Third Party: A person who is not a Party to these Terms and Conditions, EULA and/or CSA shall not have any rights to enforce any term of these terms and conditions, EULA and/or CSA, but this does not affect any right or remedy of a third party which exists, or is available, apart from these terms and conditions, EULA and/or CSA.

18.6 Amendments: Any amendment of these Terms and Conditions shall not be binding on the Parties unless set out in writing and expressed to amend these Terms and Conditions.

18.7 Neither our failure nor Your failure to enforce any term of the terms or conditions contained herein constitutes a waiver of such a term or condition. Such failure shall in no way affect the right later to enforce such a term or condition.

18.8 The invalidity or unenforceability of any provision of the Contract shall not adversely affect the validity or enforceability of the remaining provisions of these terms and conditions.

18.9 You represent and warrant that You are agreeing to these Terms and Conditions as a duly authorised representative of the Customer.

19 ATTACHMENTS

19.1 The following Attachments may apply to these Terms and Conditions:

19.1.1 The [TaxAssist Attachment](#) (only if the Customer is a TaxAssist Franchisee).

19.1.2 The Equifax Customer Licence ([ECL](#)) (only if the Customer is using the Anti-Money Laundering Identity Checking Service).