

Terms & Conditions



Description Master Software & Services Agreement

Version **2022.1**

Software & Services Agreement

THIS CONTRACT and its attached Proposal (where applicable) describes the Services Agreement between the parties.

1. DEFINITIONS

- 1.1. **Customer, You and Your** means you, the customer.
- 1.2. **Point Progress, We, Us, and Our** mean Point Progress Limited, a company registered in England and Wales (company no. 3968589) whose registered address is Southbank Central, 30 Stamford Street, London, England, SE1 9LQ and any associated companies that are associated through shareholding or directorship.
- 1.3. **Site** means meo-business.cloud, myexpensesonline.co.uk, i-comply-gdpr.com, i-comply-gdpr.co.uk and any other websites that We operate, including the instance of the on-demand service provided for You through the URL by Us.
- 1.4. **Service** includes (a) the Site, (b) the on-demand software tools and services, including but not limited to MyExpenses, MyTime, TimeOff, InvoiceFlow, DriverCare, iCompy, and associated systems and web service provided through the Site and web services made available via the Site, (c) all software, data, text, images, sounds, video, and content made available through the Site or services, or developed via Our web services (collectively the "Content"), any new features added to or augmentation to the Service, and (d) any other software or software support services provided by Us.
- 1.5. **User** is any user that has been assigned a valid user profile to gain access to the Service.
- 1.6. **Active User** is any user who has accessed the Service within a calendar month.
- 1.7. **Written Notice** means sending you either (a) a letter to your postal address; or (b) an email to the email address that you have registered with us.
- 1.8. **Implementation Charge** means the charge for the implementation and setup of the Service, as set out in the Proposal, or as otherwise agreed.
- 1.9. **Service Charge** means the software and hosting charge and any charges that may be due.
- 1.10. **Proposal** means the Service proposal, quotation or sales order prepared for You by Us.
- 1.11. **Subscription Period** means the period for which You have agreed to subscribe to the Service, as set out in the Proposal or invoice.
- 1.12. **Initial Term** means the first Subscription Period.
- 1.13. **Confidential Information** means all information which is marked as confidential, or which may reasonably be regarded as confidential provided by this Agreement, including technical, operational, billing, pricing and commercial information, and all information uploaded through the Service or otherwise provided to Us.
- 1.14. **Terms** means clause 1 to 15 set out here and below.
- 1.15. **Contract** means these Terms and the Proposal or invoice.
- 1.16. **Payment Profile** means the profile of payments as defined in the Proposal.
- 1.17. **Payment Schedule** means the schedule to which charges will be made as defined in the Proposal.
- 1.18. **Business Day** means a day excluding a Saturday, a Sunday, or a National Public Holiday.
- 1.19. **Privacy and Data Protection Requirements** means the Data Protection Act 2018, the Regulation (EU) 2016/679 (GDPR) and any other legislation in force in the United Kingdom relating to privacy and/or the processing of the Data.
- 1.20. **Data** means personal data (as that term is defined in the Privacy and Data Protection Requirements) provided by or on behalf of the Company to the Supplier under Contract, as described below:

Subject Matter	The provision of Point Progress hosted software services.
Nature and purpose of processing	Personal Data shall be processed to provide the hosted Services under the terms of this Contract
Type of Personal Data	Name, email address, telephone number, home and work addresses, bank details (optional), driving licence details (where applicable)
Categories of Data Subjects	Employees and contractors
Obligations and rights of the Data Controller	As set out in these Terms

- 1.21. **Specified Purpose** means for the purpose of providing the agreed services under the Contract.
- 1.22. **Data Subject, Data Controller, Data Processor, Personal Data, Processing, Appropriate Technical and Organisational Measures and Personal Data Breach** shall bear the meanings given to those terms respectively in the Privacy and Data Protection Requirements.

2. ACCEPTANCE OF TERMS

2.1. This Contract takes effect on signature (including electronic signature) OR on receipt of an authorised purchase order from You OR on confirmation that automated payment details have been put in place and confirmed, whichever comes first, so long as the signature or purchase order is received within 30 days of issue of the Proposal (the "Effective Date") unless otherwise agreed.

3. GENERAL CONDITIONS / ACCESS AND USE OF THE SERVICE

3.1. Subject to the terms and conditions of this Contract, You may access and use the Service only for internal business purposes as contemplated by the Contract for the Initial Term. You shall not (a) licence, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Service available to any third party, other than as expressly permitted by these Terms; (b) use the Service to process data on behalf of any third party, or (c) use the Service in any unlawful manner or in any manner that interferes with or disrupts the integrity or performance of the Service and its components.

3.2. Subject only to the limited right to access and use the Service expressly granted to You under these Terms, all rights, title and interest in and to the Service and its components will remain with and belong exclusively to Us.

3.3. You shall not modify, adapt or hack the Service to falsely imply any sponsorship, or otherwise attempt to gain unauthorised access to the Service or its related systems or networks.

3.4. As Data Controller You are responsible for all information, data, text, messages, or other materials that You post or otherwise transmit via the Service. You are responsible for any and all activities that occur under Your Service account.

3.5. You agree and acknowledge that each end user login associated with Your Service account may only be used by one (1) person.

3.6. We reserve the right to access any or all Your Service to respond to Your requests for technical support. We shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality, and integrity of Your data.

3.7. We will not disclose Your data except if compelled to by law.

3.8. You are responsible for procuring and maintaining the network connections that connect You to the Service, including, but not limited to, software that supports protocols used by the Service.

3.9. We are not responsible for notifying You of any upgrades, fixes or enhancements to any such software or for any compromise of data, including Your data, transmitted across computer networks or telecommunications facilities (including but not limited to the Internet) which are not owned, operated or controlled by Us.

3.10. You understand that the technical processing and transmission of the Service, including Your content, may involve (a) transmissions over various networks; (b) changes to conform and adapt to technical requirements of connecting networks or devices and (c) transmission to Our third-party vendors and hosting partners to provide the necessary hardware, software, networking, storage, and related technology required to operate and maintain the Service. We will use reasonable efforts to publish on the Site and notify You of any planned downtime of the Service in good time.

4. TRADEMARKS & INTELLECTUAL PROPERTY RIGHTS

4.1. MyExpenses, MyTime, TimeOff, DriverCare, InvoiceFlow, iComply and Our various logos used or displayed on the Service are trademarks of Point Progress (the "Marks") and you may only use these Marks for promotional purposes to identify yourself as a customer or user of Our products and services, provided You do not attempt to claim ownership of the Marks by incorporating any of them within Your names or offerings. You may only use such Marks to identify yourself as a customer and user of the Service; provided You do not attempt, now or in the future, to claim any rights in the Marks, degrade the distinctiveness of the Marks, or use the Marks to disparage or misrepresent Point Progress, our services or products.

4.2. We may use Your name and logo for marketing purposes, including, but not limited to, use on the websites for Our Services and Point Progress. Our permission to use Your name and logo may be reasonably restricted or removed at any time by You by providing notice to Us in writing.

4.3. Each of us shall maintain all rights, title, and interest in and to all our respective patents, inventions, copyrights, trademarks, domain names, trade secrets, know-how and any other intellectual property and/or proprietary rights (collectively, "Intellectual Property Rights"). The rights granted to You to use the Service under these Terms do not convey any additional rights in the Service, or in any Intellectual Property Rights associated therewith.

4.4. We shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable and perpetual license to incorporate into the Service or otherwise use any suggestions, enhancement requests, recommendations or other feedback We receive from You.

5. CHARGES

- 5.1. The amount and frequency of the Service Charges and Implementation Charges are specified in the Proposal or invoice. You shall pay the Service Charges and Implementation Charges in advance per the Payment Schedule. The first payment of the Service Charge will be invoiced upon the effective date of this Contract per the Payment Schedule.
- 5.2. We shall submit invoices in accordance with the procedure specified in the Payment Schedule and payment shall be made within 30 days of receipt of such invoice in accordance with the Payment Schedule.
- 5.3. We may change the prices at each renewal by no more than the percentage increase in RPI during the preceding 12 months.
- 5.4. We will audit Your use of the Service according to the metric appropriate to this Contract ("Metric") at the start of each new calendar month. If the Metric for the preceding month exceeds than the Metric purchased, We will charge You for the increased levels at the rate specified in the Proposal each month.
- 5.5. You may choose to upgrade Your licence during a Subscription Period, any incremental cost will be prorated over the remaining term of the Subscription Period and charged to Your account. Refunds for or reductions in Your licence are not available.
- 5.6. Any support, training, development or consultancy requested by You which is not specified in the Proposal shall be subject to charges at the prevailing rate. Any data formatting, cleansing and sorting by Us to facilitate execution of the Services are out of scope and if provided by Us may be charged at Our prevailing rates.
- 5.7 We reserve the right (in addition to other remedies which may be available to it) to charge an administrative fee on overdue amounts on a daily basis from the original due date at the rate of £500 per day, the Customer agrees that such administrative fee is a genuine pre-estimate of the cost and loss suffered by us from the late payment of invoices.
- 5.8. We reserve the right to suspend provision of any Services (a) 14 days after notice to You of non-payment of sums owed to Us that are past due, where such breach remains uncured, or (b) if such suspension is necessary to comply with any applicable law or order of any governmental authority.

6. MAINTENANCE & SUPPORT

- 6.1. We will provide support during normal UK office hours (9am to 5:30pm, Monday to Friday, excluding public holidays) through web-enabled support service, by email or by telephone.
- 6.2. We reserve the right to subcontract Our obligations providing the same service under these Terms.
- 6.3. Support shall include advice on the use of the Service and reasonable endeavours to resolve any operational issues about the Service reported by You. To assist Us in resolving such issues, You shall timely provide all requested information and access as necessary.

7. TERM

- 7.1. The Initial Term of this Contract is specified in the attached Proposal.
- 7.2. After the Initial Term, this Contract will automatically renew for successive periods equal to the Subscription Period unless otherwise defined in the Proposal or unless terminated by either party giving not less than three months' written notice prior to the expiry of the term then in effect.
- 7.3. For hosted services, We will provide the ability for data extraction through the DataXtract tool as provided with your licence enabling extraction of claims and receipts in a predefined format at the end of term for no fee. For extraction in other formats or other manual extraction work You will be charged at Our prevailing rates. Any charges will be pre agreed in writing before any costs are incurred.

8. CONFIDENTIALITY & DATA PROTECTION

- 8.1. We undertake to keep any Confidential Information We may receive from You secret and strictly confidential and shall not disclose any such Confidential Information to any third party without the Your prior written consent provided that (a) We are not prevented from using pre-existing general knowledge, experience or skills; (b) any Confidential Information is in or enters the public domain other than by breach of this Contract, is obtained by a third party who is lawfully authorised to disclose such information, or is authorised for release by the prior written consent by You; (c) we are required to by law.
- 8.2. We shall not be prevented from disclosing Confidential Information to the Our immediate or ultimate holding company or owning company where such company is also complying with this clause 8.
- 8.3. We shall comply with the Data Protection Act 2018 ("the Act") and any other applicable data protection legislation, and agree to comply with the obligations placed on You by Principle 7 set out in the Act, namely (a) to maintain technical and organisational security measures sufficient to comply at least with the obligations imposed on You by Principle 7; (b) only to process data for and on behalf of You, in accordance with Your instructions and for the purpose of the Contract and to ensure compliance with the Act;
- 8.4. Both parties agree to use all reasonable efforts to assist each other to comply with the Act.

9. DATA PROCESSING AGREEMENT

9.1. With respect to the Parties' rights and obligations under this Agreement, the Parties agree that the Company is the Data Controller and that the Supplier is the Data Processor, where hosted services are provided by Us.

9.2. The Supplier agrees to comply, and to procure that its sub-contractors comply, with all Privacy and Data Protection Requirements in relation to any Data processed by it and shall not put the Company in breach of the Privacy and Data Protection Requirements.

9.3. Without limiting Clause 4.2, the Supplier agrees to:

- a) have in place appropriate technical and organisational measures against the unauthorised or unlawful processing of personal data comprised in the Data and any other personal data provided to the Supplier by or on behalf of the Company and against accidental loss or destruction of, or damage to, such Data;
- b) process the Data only on behalf of the Company, only for the Specified Purpose and only in accordance with written instructions received from the Company from time to time, provided such instruction do not infringe any applicable law;
- c) promptly notify the Company if it receives from a Data Subject to whom Data relates a request for, or notice of, the exercise of that person's rights under the Privacy and Data Protection Requirements to access such Data or prevent certain processing;
- d) promptly provide to the Company such information, co-operation and assistance as the Company may from time to time reasonably require enabling the Company to comply with its obligations as a Data Controller in respect of any Data; and

9.4. The Supplier undertakes to the Company that it shall:

- a) ensure that each sub-contractor enters into a written agreement undertaking to the Supplier in equivalent terms to the undertakings contemplated to be given by the Supplier to the Company;
- b) not and its sub-contractors shall not transfer any Data outside the European Economic Area without obtaining prior written consent from the Company;
- c) notify the Company within at least within two (2) Business Days upon becoming aware of a personal data breach and promptly provide such information and assistance as is reasonably required by the Company in order for the Company to react and respond to that personal data breach in accordance with its obligations under, and within the timeframes specified by, the Privacy and Data Protection Requirements;
- d) keep full and accurate records of all elements of its processing of the Data; and
- e) on termination of this Agreement, allow the Data to be downloaded, and after an agreed time-period destroy all the Data (including all copies of it), and confirm in writing that it has complied with this obligation.

10. WARRANTY

10.1. This warranty is in lieu of all other warranties express or implied, including but not limited to, the implied warranties of satisfactory quality and fitness for a particular purpose.

10.2. We warrant that the Service will perform in all material respects in accordance with the functional specifications set forth in the user guides that We provide, as may be reasonably modified from time to time by Us.

10.3. We reserve the right to (a) modify Your licence to use the Service or discontinue, temporarily or permanently, the Service (or any part thereof) and (b) refuse any and all current and future use of the Service, suspend or terminate Your use of the Service, in the event that You materially breach these Terms. We will use all reasonable efforts to contact You directly to warn You prior to suspension or termination of Your account. Any suspected fraudulent, abusive, or illegal activity that may be grounds for termination of Your use of the Service, may be referred to appropriate law enforcement authorities. We shall not be liable to You or any third party for any modification of Your licence, suspension, or discontinuation of the Service pursuant to this clause.

10.4. In the case of a discontinuation of Services Your data to be made available to You under the terms of 7.3.

10.5. We reserve the right to modify the Service (or any part thereof). We warrant that (a) the Service will be provided with reasonable skill, care, and diligence; and (b) the Service is delivered free from viruses and other malicious code and free from defects.

11. LIABILITY

11.1. Subject always to clause 12, We shall not be liable to You or any third party for any indirect, incidental, special, exemplary, consequential, or punitive damages, including lost profits, lost sales or business or business interruption. In addition, We shall not be liable for any direct damages, costs, losses or liabilities in excess of the Service Charges equivalent to the one month preceding the

11.2. The Service uses the internet and therefore We do not warrant that such services will be uninterrupted, error-free, or completely secure. We cannot control the flow of data to or from Our or Your network and other portions of the internet; such flow depends in large part on the internet services provided or controlled by third parties. Actions or inactions of such third parties can impair or disrupt Your connections to the internet (or portions thereof). Accordingly, we disclaim any and all liability resulting from or related to the above events.

11.3. No claim under this Contract can be advanced if more than one year has elapsed after the reason for the claim arose.

12. LIMITATION OF LIABILITY

12.1. Neither party excludes or limits liability to the other party for death or personal injury caused by the negligence of either party, or for any other liability which cannot be limited or excluded under applicable law.

12.2. Subject always to sub-clause 12.1 neither party shall be liable to the other for (a) loss of profits, or of business, or of revenue, or of goodwill, or of anticipated savings; and/or (b) indirect or consequential loss or damage, whether arising in contract, tort or otherwise.

12.3 Each party's liability to the other in respect of any loss of or damage to physical property of the other whether in contract, tort (including negligence) or otherwise arising from or in connection with, this Contract shall be limited to £1,000,000 aggregate.

13. ASSIGNMENT

13.1. We may assign or transfer these Terms without restriction, provided that We shall ensure that the assignee shall be bound by these Terms, the assignee shall enter into any assignment or novation agreement requested by you in respect of its rights and obligations under these Terms, and shall ensure that the assignee complies with these Terms.

13.2 We may assign this Contract to Civica UK Limited (our parent company), a company registered in England under company number 1628868 with its registered office at Southbank Central, 30 Stamford Street, London, England, SE1 9LQ, on written notice to you, with effect from 1 February 2023, Civica will comply with these Terms.

14. GENERAL

14.1. The parties acknowledge that with regard to the Service under this Contract, You are acting as Data Controller and Us as a Data Processor under the 2018 Act, as amended. The parties shall comply with their respective obligations under the 2018 Act and any other applicable legislation relating to the processing of personal data. Without limitation to the foregoing, (i) the Customer shall obtain appropriate consents to enable personal data to be transferred between the parties in connection with the Services and for the service to be performed in compliance with the Act and (ii) Point Progress shall, in relation to personal data of the Customer or its agents, only use the personal data as necessary to perform its obligations under this Contract and shall not pass the personal data to any third party nor transfer it outside of the European Economic Area (EEA). "Personal data", "processing", "data controller" and "data processor" shall have the meanings given to them under the 2018 Act.

14.2. These Terms and its attached Proposal are the complete and exclusive agreement between the parties regarding the Service.

14.3. No change shall be made to this Contract except in writing signed by the duly authorised representatives of the parties.

14.4. If any provision of this Contract is held by a court or other competent authority to be invalid or unenforceable, in whole or in part, this Contract shall continue to be valid as to its other provisions.

14.5. No term of this Contract may be enforced by any third party under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

14.6. No failure or delay by a party to exercise any right or remedy provided under this Contract or by law shall constitute a waiver of that

or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or

partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

15. GOVERNING LAW

15.1. These Terms shall be governed by the laws of the England and Wales and the courts of England and Wales shall have exclusive

jurisdiction in respect of a dispute arising out of or in connection with this Contract.

