

CHANNEL MECHANICS – COMMERCIAL TERMS

1. Definitions

- 1.1 In these Commercial Terms the following terms shall have the following meanings, save that any defined term used in these Commercial Terms but not defined below shall have the meaning as set out in the EULA:
- 1.1.1 **"Adoption Support Services"** any services (other than the ChannelIT Software Solution) provided by Channel Mechanics at the request of the Customer;
- 1.1.2 **"Billing Frequency"** the intervals at which Channel Mechanics shall be entitled to issue invoices for equal instalments of the total Recurring Fees payable in advance in respect of the relevant Initial Subscription Term or Renewal Period, as stated on the Order Form, being either "One off", quarterly ("Quarterly"), six monthly ("Bi-Annually") or annually ("Annually");
- 1.1.3 **"Customer Credit Card"** a valid credit card in the name of the Customer or such other person as is specified on the Order Form, details of which have been supplied to Channel Mechanics prior to signature of the Order Form and/or notified to Channel Mechanics in accordance with clause 6.2 below;
- 1.1.4 **"Customer"** the customer as identified on the Order Form;
- 1.1.5 **"End Date"** the end date as specified on the Order Form;
- 1.1.6 **"Fees"** the Non-recurring Fees and the Recurring Fees, which are exclusive of any applicable VAT or sales tax;
- 1.1.7 **"Initial Subscription Term"** a period starting on the Start Date and ending on the End Date;
- 1.1.8 **"Non-recurring Fees"** the non-recurring fees indicated on the Order Form, for which Channel Mechanics may issue invoices in accordance with clause 4.2(i) and which shall be payable in full on or following the Start Date;
- 1.1.9 **"PO"** is defined in clause 4.3 below;
- 1.1.10 **"Payment Method"** the method by which the Customer will pay the Fees (either credit card or EFT) as specified on the Order Form;
- 1.1.11 **"Payment Terms"** the number of days from the date of an invoice issued by Channel Mechanics within which that invoice must be paid, as specified on the Order Form;
- 1.1.12 **"Recurring Fees"** the recurring fees in respect of the Initial Subscription Term and each Renewal Period, as indicated on the Order Form, for which Channel Mechanics may issue invoices in accordance with clauses 4.2(ii) and 4.2(iii) as appropriate;
- 1.1.13 **"Renewal Period"** a recurring consecutive period of a duration indicated on the Order Form which shall be indicated as either, (i) "Not Applicable" (where the order will not be automatically renewed in accordance with clause 3.1 following the Initial Subscription Term), or (ii) either "Quarterly" (one (1) quarter), "Bi-Annually" (two (2) quarters) or "Annually" (one (1) year). Where automatically renewed the first Renewal Period will commence on the day following the End Date and subsequent Renewal Periods will commence on the day following the last day of the previous Renewal Period;
- 1.1.14 **"Services"** shall mean the licence of the ChannelIT Software Solution and the Documentation under the EULA, the Adoption Support Services, and any other services provided by Channel Mechanics at the Customer's request;
- 1.1.15 **"Start Date"** the start date as specified on the Order Form, and defined in the EULA as the "Commencement Date"; and
- 1.1.16 **"Term"** the term of the Agreement, being the Initial Subscription Period together with any and all Renewal Periods.

2. Your agreement with Channel Mechanics

- 2.1 These Commercial Terms set out the Term, Fees and payment terms applicable to the supply by Channel Mechanics of the Services (including the licence of the ChannelIT Software Solution and Documentation) to the Customer.
- 2.2 For the avoidance of doubt, these Commercial Terms form part of the Agreement (more particularly defined in the EULA), which also includes the EULA and the Order Form, both of which are incorporated into the Agreement by reference.

3. Term and termination

- 3.1 Without prejudice to clause 3.2 below, any right of either party to terminate the Agreement in accordance with clause 12 of the EULA or otherwise, the Agreement shall continue for the Initial Subscription Term and shall, subject to payment by the Customer of the Fees, renew for recurring consecutive Renewal Periods unless either party has given notice to terminate in writing to the other party no fewer than thirty (30) days before the end of the then-current Initial Subscription Term or Renewal Period (as applicable), in which case the Agreement shall terminate at the end of that Initial Subscription Term or Renewal Period.
- 3.2 The Agreement shall terminate immediately in the event that the EULA is terminated for whatever reason, the consequences of which termination shall be as set out in clause 12.4 of the EULA. However, for the avoidance of doubt, the termination of any other Services shall not of itself terminate the Agreement.

4. Fees

- 4.1 The Customer shall pay the Fees, together with any applicable VAT or sales tax, by either electronic funds transfer (in accordance with clause 5) or credit card (in accordance with clause 6) as indicated by the Payment Method on the Order Form.
- 4.2 Channel Mechanics shall be entitled to issue invoices as follows: (i) for the full amount of the Non-recurring Fees on or following the Start Date, and (ii) where the Billing Frequency is "One off" for the full amount of the Recurring Fees on or following the Start Date; and (iii) where the Billing Frequency is "Quarterly", "Bi-Annually" or "Annually": (a) for the first instalment of the Recurring Fees payable in respect of the Initial Subscription Term, in advance of or following the Start Date, and for subsequent equal instalments in advance in accordance with the stated Billing Frequency; and (b) for the first instalment of the Recurring Fees payable in respect of each Renewal Period in advance of or following the first date of each Renewal Period, and for subsequent equal instalments in advance in accordance with the stated Billing Frequency.
- 4.3 Subject to clause 4.4 below, the Customer may elect to provide to Channel Mechanics a purchase order form ("**PO**") in respect of any or all of the Fees. Where the Customer elects to provide a PO, any PO in respect of the Non-recurring Fees and the Recurring Fees payable in respect of the Initial Subscription Term must be provided to Channel Mechanics before the Start Date, and any PO in respect of the Recurring Fees payable in respect of a Renewal Period must be provided to Channel Mechanics no less than fifteen (15) days before the start of the relevant Renewal Period.
- 4.4 For the avoidance of doubt, the Customer's order is effective immediately upon signature of the Order Form. The Customer may, at its option, provide a PO to Channel Mechanics as provided in clause 4.3 above, however any failure or delay of the Customer in providing a PO shall not affect the Customer's obligation to pay all amounts due under the Agreement as and when they fall due.
- 4.5 In the event that Customer fails to pay any amount due under these Commercial Terms within five (5) days of being called upon to do so in writing, Channel Mechanics may:
- 4.5.1 suspend the Customer's right to use the ChannelIT Software Solution and the Documentation;
- 4.5.2 terminate the Agreement; and/or
- 4.5.3 charge the Customer interest on the overdue amount at the rate of 4% per annum above the base rate from time to time of the Royal Bank of Scotland. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- The remedies set out in this clause 4.5 shall be without prejudice to any other remedy available to Channel Mechanics and to any right of either party to terminate the Agreement in accordance with clause 12 of the EULA or otherwise.
- 4.6 Initial Subscription Term Fees are subject to change upon renewal in line with our then current pricing. Channel Mechanics will notify the Customer of new pricing in writing no fewer than forty-five (45) days before the end of the then-current Initial Subscription Term or Renewal Period (as applicable).

5. Payment by electronic funds transfer

- 5.1 Where the Payment Method is "EFT", the Customer shall pay the full amount of any invoice issued by Channel Mechanics in accordance with clause 4.2 by way of electronic transfer of cleared and available funds promptly upon receipt of such invoice, and in any event in accordance with the Payment Terms applicable to such invoice as specified on the Order Form.

6. Payment by credit card

- 6.1 Where the Payment Method is "Credit Card", Channel Mechanics shall be entitled to take payment from the Customer Credit Card immediately following the issue of an invoice for such amount(s) issued by Channel Mechanics in accordance with clause 4.2. Under no circumstances shall Channel Mechanics be liable for any fees or charges incurred by Customer as a result of any attempt by Channel Mechanics to take payment from the Customer Credit Card in accordance with these Commercial Terms.
- 6.2 If at any time during the Term the Customer Credit Card becomes invalid or if Channel Mechanics is otherwise unable to take payment from the Customer Credit Card for any other reason, the Customer shall immediately provide updated and valid details of a replacement credit card to Channel Mechanics. If updated Customer Credit Card details are not provided in accordance with this clause 6.2, or if Channel Mechanics is subsequently unable to take payment from the updated Customer Credit Card, Channel Mechanics may treat this as a failure to pay amounts due under these Commercial Terms.

7. Adoption Support Services

- 7.1 Channel Mechanics may provide certain Adoption Support Services to the Customer. For the avoidance of doubt any supply of Adoption Support Services shall be subject in particular to the terms set out in clauses 4 (Customer Data), 6 (Channel Mechanics' obligations), 7 (Customer's obligations), 8 (Proprietary rights), 9 (Confidentiality), 11 (Limitation of liability) and 13 (Force majeure) of the EULA.