

Approved Client Service Agreement

Parties

This Agreement is made between The Big Blue Trading Company Limited (company number 07262973), trading as Bluecoat and Bluecoat Software with its principal place of business at The Atrium, Curtis Road, Dorking, Surrey ("**Bluecoat**" which expression shall include its subsidiaries, agents, and assigns); AND

You, the private individual whose details are set out on the Registration Page (defined below), who is an Approved Client of an Approved IFA (both terms defined below) who wishes to contract with Bluecoat to receive the Services (defined below) (and the terms **You**, **Yours** and **Your** shall be construed accordingly).

1. Background

- 1.1 Bluecoat has developed software applications and platforms, access to which it licenses to Approved Clients on the terms of this Agreement and to Approved IFAs under the terms of Approved IFA Agreements (defined below).
- 1.2 Bluecoat does not sell its Software or Documentation. Bluecoat remains the owners of its Software and Documentation at all times and simply allows Bluecoat's Approved IFAs (and their Approved Clients) to use Services (defined below) that derive from its Software.
- 1.3 You wish to use the Services for your personal financial administration purposes.
- 1.4 Bluecoat has agreed to provide and You have agreed to receive the Services subject to the terms and conditions of this Agreement.

2. IMPORTANT NOTICE:

- 2.1 **BY INDICATING YOUR ACCEPTANCE ON THE REGISTRATION PAGE (DEFINED BELOW) YOU ARE AGREEING TO RECEIVE THE SERVICES ON THE TERMS OF THIS AGREEMENT AND THIS AGREEMENT WILL BIND YOU.**
- 2.2 **THE TERMS OF THIS AGREEMENT INCLUDE, IN PARTICULAR, LIMITATIONS ON LIABILITY IN CLAUSE 13.**
- 2.3 **YOU SHOULD PRINT A COPY OF THIS AGREEMENT FOR FUTURE REFERENCE.**

3. Contract Formation and Amendment

- 3.1 A binding contract shall arise only if Bluecoat invites you to complete the Registration Page and you indicate your acceptance of this Agreement by placing a tick in the appropriate box(es).
- 3.2 In addition to its rights under Clause 12.2 below, Bluecoat may amend this Agreement (or any subsequent version of this Agreement Approved in accordance with this Clause 3.2) with Your Approval provided that:
 - i. Subject to Sub-Clause 3.2 ii below, any Use that You make of the Services after Bluecoat has notified You In Writing that it has altered this Agreement shall be deemed to be an Approval of the amended Agreement; and
 - ii. if You do not accept the amendment You may reject the change by giving Bluecoat notice In Writing within 14 days of notification of the proposed change, in which case the Agreement will continue until the end of the Term on the existing terms.
- 3.3 Notwithstanding Clause 3.2 above, whenever the Term of this Agreement is extended for a further Extended Period the parties accept that (unless Bluecoat gives its Approval otherwise) this Agreement will be amended to reflect the then current approved client service agreement used by Bluecoat as it appears at <https://finplanportal.com/Default/TermsAndConditions>

3.4 Please note that provision of the Services is subject to the provision of all Mandatory Information and in the event that this is not supplied on the Registration Page, provision of the Services may be delayed or suspended until the date one Business Day after completion of these obligations but that (i) the date on which any Fees are payable and (ii) the end of the Term shall not be affected by the delayed or suspended access.

4. Interpretation

4.1 The following definitions and rules of interpretation shall apply in this Agreement.

Approval: prior approval In Writing and the terms **Approve** and **Approved** shall be construed accordingly.

Approved Client: a client of an Approved IFA that the Approved IFA nominates to Use the Services and that has entered into a Client Service Agreement.

Approved IFA: an independent financial advisor that has been Approved by Bluecoat to Use some of the Services.

Approved IFA Agreement: an enforceable agreement between an Approved IFA and Bluecoat under which the Approved IFA and Bluecoat have agreed that the Approved IFA may Use some of the Services upon agreed terms.

Approved Users: such of Your Approved IFA's employees as Your Approved IFA wishes to Use the Services and that have been Approved by Bluecoat.

Business Day: any day which is not a Saturday, Sunday or public holiday in the UK, and Excluding other ad hoc dates which you will be notified of in advance.

Client Service Agreement: an enforceable agreement between an Approved Client and Bluecoat under which the Approved Client and Bluecoat have agreed that the Approved Client may Use some of the Services upon agreed terms.

Commencement Date: the date as specified on the Registration Page.

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

Current Data Allowance: Your current data allowance as set out on the Registration Page (as varied in accordance with Clauses 7.2 and 7.3).

Data Controller and Data Processor and Data Subject: shall have the meaning set out in the DP Legislation.

Documentation: the documents, training materials and recorded materials made available to You by Bluecoat as part of the provision of the Services.

DP Legislation means the Data Protection Act 1998 and all other applicable laws, enactments, regulations, orders, standards and other similar instruments in the United Kingdom.

Extended Period: where Approved by Bluecoat the period commencing at the end of the Minimum Agreement Period or any Extended Period thereafter and continuing for a period specified on the Registration Page subject to any termination in accordance with Clauses 19.3 or 19.4.

Fees: either the fees payable by Your Approved IFA covering Your use of the Services or the fees (if any) payable by You to Bluecoat as set out on the Registration Page and comprising the Licence Fee, Data Fee, Installation Fee and any Additional Fee each as specified in the Registration Page (as varied in accordance with Clause 12.2).

In Writing: in writing, by email or in app using the contact details set out on the Registration Page or any amended contact details Approved or notified to the other party in accordance with Clause 5.1 or Clause 5.2.

Mandatory Information: the information and documents as specified on the Registration Page that must be supplied by You before the Services can be accessed by You.

Minimum Agreement Period: the period commencing on the Commencement Date and continuing throughout the period that Your Approved IFA is permitted to retain You as an

Approved Client under an Approved IFA Agreement (unless specified otherwise in the Registration Page) subject to any termination in accordance with Clauses 19.3 or 19.4.

Normal Business Hours: 9.00 am to 17.00 pm local UK time, each Business Day.

Personal Data: means any personal data (as that term is used in the DP Legislation) within Your Data.

Registration Page: a page on Bluecoat's website on which You are invited to become an Approved Client and thereafter log-on to receive Services.

Relevant Reference Rate: the relevant reference rate provided for under the Late Payment of Commercial Debts (Interest) Act 1998.

Services: those services provided to You and Your Approved IFA by Bluecoat as set out on the Registration Page (as varied in accordance with Clauses 7.2 and 7.3).

Software: the online and desktop software applications used by Bluecoat in order to provide the Services.

Term: the Minimum Agreement Period and all Extended Periods.

Use: avail Yourself/themselves of the benefits of.

Virus: any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

Your Data: the data and documents relating to You inputted by You, Your Approved IFA, Approved Users, or Bluecoat for the purpose of using the Services or facilitating Your or Your Approved IFA's use of the Services.

4.2 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.

4.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality).

4.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

4.5 Words in the singular shall include the plural and vice versa.

4.6 A reference to one gender shall include a reference to the other genders.

4.7 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

4.8 References to paragraphs, clauses and schedules are to the paragraphs, clauses and schedules of this Agreement.

4.9 In the event of any inconsistency between the terms of this Agreement and the terms of the Registration Page, the terms of the Registration Page shall have precedence.

5. Contact Details

5.1 You must always ensure that the contact details for You described on the Registration Page (or any subsequent contact details for You Approved in accordance with this Clause 5.1) remain current and relevant and You may only amend those contact details with the Approval of Bluecoat.

5.2 Bluecoat may amend its own contact details (as set out on the Registration Page or any subsequent contact details for Bluecoat amended in accordance with this Clause 5.2) by notifying You In Writing in accordance with Clause 25.3.

6. Use of Services

6.1 Subject to Your payment of all Fees (where relevant) in accordance with the terms and conditions of this Agreement, Bluecoat hereby grants to You a non-exclusive, non-transferable right for You to Use the Services during the Term solely for Your own personal financial administration purposes.

6.2 You shall not Use the Services to access, store, distribute or transmit any Viruses, or any material that:

- i. is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- ii. facilitates illegal activity;
- iii. depicts sexually explicit images;
- iv. promotes unlawful violence;
- v. is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activity; or
- vi. causes damage or injury to any person or property, including reputational damage;

and Bluecoat reserves the right, without liability to You or Your Approved IFA, to disable Your and/or Your Approved IFA's access to the Services where any breach of the provisions of this Clause 6 occurs or is suspected.

6.3 You shall not:

- i. except to the extent expressly permitted under this Agreement or as may be allowed by any applicable law and which is incapable of exclusion by agreement between the parties:
 - (a) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or
 - (b) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
- ii. access all or any part of the Services, Software or Documentation in order to build a product or service which competes with the Services; or
- iii. use the Services and/or Documentation to provide services to third parties other than Approved Clients; or
- iv. license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party other than Approved Clients, or
- v. attempt to obtain, or assist third parties in obtaining, access to the Software, Services and/or Documentation, other than as provided under this Clause 6.

6.4 You shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Software, Services and/or the Documentation and, in the event of any such unauthorised access or use, shall promptly notify Bluecoat and take all steps reasonably required by Bluecoat to address the misuse.

6.5 The rights provided under this Clause 6 are granted to You only, and shall not be considered granted to any of Your family members, employers or any businesses with which You are connected.

7. Services

7.1 Bluecoat shall, during the Term, provide the Services and make available to You the Documentation on and subject to the terms of this Agreement.

7.2 In the event that You wish to alter the Services described on the Registration Page (or any subsequent Services Approved in accordance with this Clause 7.2) You may only do so with the Approval of Bluecoat.

- 7.3 In the event that Bluecoat alters the Services described on the Registration Page (or any subsequent Services Approved in accordance with this Clause 7.3) it may only do so with Your Approval or as set out in Clause 3.2.
- 7.4 Bluecoat shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for when maintenance is performed.
- 7.5 Bluecoat will, as part of the Services and at no additional cost to You, provide You with the Bluecoat standard customer support services during Normal Business Hours. Bluecoat may amend its standard customer support services in its sole and absolute discretion from time to time. Bluecoat may make support services available via premium rate telephone line. Should You choose to use these support services, the entire cost of the premium rate call and any support charges notified by Bluecoat for these support services will be borne by You.
- 7.6 As part of the Services it may be necessary for Bluecoat to make changes to Your system(s) or Your Data or to re-locate Your Data or files used by the Software and You acknowledge that it is Your responsibility to ensure that You have in place sufficient back-up facilities to enable Your Data and system(s) to be restored in the event of any hardware or other systems failure. Bluecoat's liability in respect of any loss of Your Data is limited as set out at Clause 8.9.

8. Data Protection

- 8.1 You shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all of Your Data.
- 8.2 You acknowledge that the Services involve all of Your Data being shared with Your Approved IFA and Approved Users.
- 8.3 If Bluecoat processes any Personal Data when performing its obligations under this Agreement, the parties record their intention that You and/or Your Approved IFA shall be the Data Controller(s) and Bluecoat shall be a Data Processor.
- 8.4 Bluecoat shall process the Personal Data:
- i. Subject to clause 8.5 below, only to the extent, and in such a manner as is necessary for it to perform the Services, comply with applicable legislation and as otherwise approved by You or Your Approved IFA and/or Approved Users;
 - ii. strictly in accordance with Your instructions from time to time (provided always that such requests are in accordance with the terms of this Agreement); and
 - iii. in compliance with the DP Legislation.
- 8.5 Bluecoat shall have the right to use the Personal Data to contact You and Approved Users in order to offer You/them additional goods and/or services provided that such contact and offers comply with the DP Legislation.
- 8.6 Bluecoat may disclose the Personal Data to a third party only:
- i. where such disclosure is part of the Services;
 - ii. with Your or the Your Approved IFA's Approval, or
 - iii. as provided for in this Agreement.
- 8.7 You shall ensure that Bluecoat is entitled to process all Personal Data so that Bluecoat may lawfully use, process and transfer the Personal Data in accordance with this Agreement on Your and Your Approved IFA's and Approved Users' behalf.
- Specifically, You shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by the DP Legislation.
- 8.8 Bluecoat shall 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 its compliance with the DP Legislation.
- 8.9 Bluecoat shall follow its archiving procedures for Your Data. In the event of any loss or damage to Your Data, Yours and Your Approved IFA's sole and exclusive remedy from Bluecoat shall be for

Bluecoat to use reasonable commercial endeavours to restore what has been lost or damaged of Your Data from the latest back-up of such of Your Data maintained by Bluecoat.

- 8.10 Bluecoat shall restrict access to the Personal Data to those of its employees, contractors and agents who need access to the Personal Data to meet Bluecoat's obligations under this Agreement and shall ensure that all such employees, contractors and agents:
- i. are informed of the confidential nature of the Personal Data;
 - ii. have undertaken reasonable training in the laws relating to handling personal data; and
 - iii. are aware both of Bluecoat's duties and their personal duties and obligations under such laws and this Agreement.
- 8.11 Bluecoat may only authorise a third party sub-contractor to sub-process the Personal Data on its behalf provided that the sub-contractor's contract with Bluecoat:
- i. provides equivalent obligations on such sub-contractors and equivalent protections in relation to Personal Data as those set out in this Clause 8; and
 - ii. will terminate automatically on termination of this Agreement for any reason.
- 8.12 Bluecoat will keep a record of any processing of Personal Data it carries out on Your behalf and shall deal reasonably promptly and properly with all enquiries from You concerning the Personal Data or its processing.
- 8.13 In the event of any complaint, notice or communication relating directly or indirectly to the processing of the Personal Data or to either party's compliance with the DP Legislation (including, without limitation, a request from a Data Subject for access to that person's Personal Data), You or Bluecoat (as applicable) shall:
- i. promptly inform the other party of any such complaint, notice or communication received by it from a third party; and
 - ii. provide the other party with reasonable co-operation and assistance and comply with all its reasonable instructions in the handling of any such complaint, notice or communication.
- 8.14 By using the Services, You agree that Bluecoat may collect information about Your and Approved Users' computer or device (for example your IP address, operating system and browser type), for security purposes and to administer and monitor Use of the Services.

9. Third Party Providers

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

10. Bluecoat's Obligations

- 10.1 Bluecoat shall ensure that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.
- 10.2 The obligation at Clause 10.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Bluecoat's instructions, or modification or alteration of the Services by any party other than Bluecoat or Bluecoat's duly authorised contractors or agents. If the Services do not conform with the foregoing obligation, Bluecoat will, at its expense, use all

reasonable commercial endeavours to correct any such non-conformance promptly, or provide You with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes Your sole and exclusive remedy for any breach of the obligation set out in Clause 10.1. Notwithstanding the foregoing, Bluecoat:

- i. does not warrant that Your and Your Approved IFA;s and Approved Users' use of the Services will be uninterrupted or error-free; nor that the Services, Documentation and/or the information obtained by You and/or the Approved Users' and Your Approved IFA through the Services will meet Your and/or their requirements; and
- ii. is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and You and the Approved Users and Your Approved IFA acknowledge that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

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

10.4 Bluecoat warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.

11. Your Obligations

11.1 You shall:

- i. provide Bluecoat with:
 - (a) all necessary co-operation in relation to this Agreement; and
 - (b) all necessary access to such information as may be required by Bluecoat;

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

- ii. comply with all DP Legislation and all applicable laws and regulations with respect to Your activities under this Agreement;
- iii. carry out all other of Your responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in Your provision of such assistance as agreed by the parties, Bluecoat may adjust any agreed timetable or delivery schedule as reasonably necessary;
- iv. ensure that You are capable of receiving an email message from Your Approved IFA to enable You to activate Your Use of the Services;
- v. obtain and shall maintain all necessary licences, consents, and permissions necessary for Bluecoat, its contractors and agents to perform their obligations under this Agreement, including without limitation the Services and the right for Bluecoat to access and transfer Your Data in accordance with this Agreement;
- vi. ensure that Your network and systems comply with the relevant specifications provided by Bluecoat from time to time; and
- vii. be solely responsible for procuring and maintaining Your network connections and telecommunications links from Your systems to Bluecoat's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to Your or Your Approved IFA's network connections or telecommunications links or caused by the internet.

11.2 You undertake:

- i. not to copy the Software (other than for normal system operation) or Documentation or otherwise reproduce the same;
- ii. not to translate, adapt, vary, or modify the Software or Documentation;

- iii. not to provide or otherwise make available the Software in whole or in part (including but not limited to program listings, object and source program listings, object code and source code), in any form to any person other than the Approved Users and then only as part of the Services; and
- iv. within fourteen (14) days after the date of termination or discontinuance of this Agreement for whatever reason, to return or destroy (as Bluecoat shall instruct) the Software and Documentation and all updates, upgrades or copies, in whole and in part, in any form including partial copies or modifications of the Software received from Bluecoat or made in connection with this Agreement and all Documentation relating thereto and to furnish Bluecoat with a certificate, undertaking that the same has been done.

12. Fees

- 12.1 Where Fees are payable by You (as set out on the Registration Page) the manner in which they shall be payable shall be set out on the Registration Page or as otherwise Approved by Bluecoat.
- 12.2 Where Fees are payable by You they are subject to a reasonable annual increase. Such increased fees shall take effect on or around 15 November of each year of the Term.
- 12.3 Any discount included in the Fees payable by You will be for the Minimum Agreement Period only. Once the Minimum Agreement Period has expired any discount may be removed and the Fees will revert to the currently prevailing non-discounted rates.
- 12.4 Any discount that has been applied to the Fees payable by You is granted subject to Your account remaining within Bluecoat's standard billing and settlement terms. Should payment not be received or the account be subject to dispute, all discounts can, at Bluecoat's discretion, be removed.
- 12.5 The Fees payable by You may be dependent on You or Your Approved IFA being a member of a network or other specific organisation to which a discount on the standard published charges has been granted. Should or Your Approved IFA leave that network or specific organisation on which these discounts are based, the Fees will be amended to remove any discounts granted due to this relationship.
- 12.6 All charges herein before referred to are exclusive of and subject to any taxes, duties or such other additional sums including, but without prejudice to the foregoing generality, value added/purchase tax, excise tax, (tax on sales, property or use), import or other duties, and whether levied in respect of this Agreement, the Software, its use or otherwise.
- 12.7 If Your Approved IFA or You (where Fees are payable by You) default in making payment of any sum payable pursuant to an Approved IFA Agreement or (where Fees are payable by You) this Agreement then Bluecoat shall (without prejudice to any other right or remedy it may have) be entitled to:
 - i. withhold the Services until such time as all outstanding fees have been paid in full, and shall not be responsible for any loss or damage You and/or Your Approved IFA may suffer in consequence. It is expressly agreed that You will continue to remain bound by all the obligations of this Agreement during the period that the Services are withheld, including notice periods and further Fees payable;
 - ii. where Fees are payable by You and if You have not paid the outstanding fees in full by the date 30 days from the payment date:
 - (a) charge You a reasonable administration fee and interest on the outstanding sums at the Relevant Reference Rate from the date the payment became due until actual payment is made (irrespective of whether the date of payment is before or after any judgement or award is made); and
 - (b) refer the matter to our debt collection agents, Daniels Silverman Limited, which will incur a surcharge of 15% of the debt, plus VAT at the prevailing rate. You agree that

you will be legally liable to pay us that surcharge, and that payment of the same can be enforced against you in court.

13. Bluecoat's Liability

- 13.1 Bluecoat shall not be liable to You for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with this Agreement, the Software, the Services, their use or otherwise, except to the extent to which it is unlawful to exclude such liability under the applicable law.
- 13.2 Notwithstanding the generality of Clause 13.1 above, Bluecoat expressly excludes liability for any indirect, special, incidental or consequential loss or damage which may arise in respect of (i) any loss of or damage to Your Data beyond the remedies set out in Clause 8.9 ; (ii) any loss or damage to your hardware, software or other systems or property arising in consequence of Bluecoat's provision of customer support services ; and (iii) the Software and Services including all Documentation and manuals relating thereto, their Use or in respect of equipment or property, or for loss of profit, business, revenue, goodwill or anticipated savings.
- 13.3 In the event that any exclusion contained in this Agreement shall be held to be invalid for any reason and Bluecoat becomes liable for loss or damage that may lawfully be limited, such liability shall be limited to the Licence Fee (if any).
- 13.4 Bluecoat does not exclude liability for death or personal injury to the extent only that the same arises as a result of the negligence or fraudulent misrepresentation of Bluecoat, its employees, agents or authorised representatives.

14. Copyright, Patents, Trade Marks and Other Intellectual Property Rights

- 14.1 You acknowledges that any and all of the copyright, trademarks, trade names, patents and other intellectual property rights subsisting in or used in connection with the Software and the Services including all Documentation and manuals relating thereto, are and shall remain the sole property of Bluecoat. You shall not during or at any time after the expiry or termination of this Agreement in any way question or dispute the ownership by Bluecoat thereof.
- 14.2 In the event that new inventions, designs or processes evolve in performance of or as a result of this Agreement, You acknowledge that the same shall be the property of Bluecoat unless otherwise Approved by Bluecoat.
- 14.3 You shall indemnify Bluecoat fully against all liabilities, costs and expenses which Bluecoat may incur as a result of work done in accordance with Your (or Your Approved Users' or Approved Clients') specifications involving infringement of any patent or other proprietary right.

15. Warranty

- 15.1 You acknowledge that software in general is not error-free nor without interruption and You agree that the existence of such errors or interruptions in the Software or Services shall not constitute a breach of this Agreement.
- 15.2 Bluecoat does not warrant that the Documentation or documents or reports produced by the Software will be accurate, complete or comply with any particular statutory legislative requirements and You should ensure that the performance of the Software complies with all Your requirements and obligations. Bluecoat makes no representation or warranty (express or implied) as to continued availability of the information, materials and data available from time to time on or through the Services. In the event that You discover a material error which substantially affects Your use of the same and You notify Bluecoat of the error, Bluecoat shall at its sole option either refund an appropriate proportion of the Fees (if payable) or use reasonable endeavours to correct by patch or new release (at its option) that part of the Software which does not so comply PROVIDED THAT such non-compliance has not been caused by any modification, variation or addition to the Software not performed by Bluecoat or 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.

- 15.3 The information, materials and data provided to You via the Services are for general information purposes and should not be construed as investment advice. If You require any advice on investments, You should contact a financial or other professional adviser.
- 15.4 To the extent permitted by the applicable law, Bluecoat disclaims all other warranties with respect to the Software and the Services and Documentation and their availability, either express or implied, including but not limited to any implied warranties of merchantability or fitness for any particular purpose.
- 15.5 Although Bluecoat does not warrant that the Software supplied hereunder shall be free from all known viruses it has used commercially reasonable efforts to check for the most commonly known viruses prior to packaging but You are solely responsible for virus scanning the Software.

16. Indemnity

- 16.1 Bluecoat agrees to indemnify You at its own expense from and against any and all claims of infringement of copyright, patents, trademarks, industrial designs, or other intellectual property rights affecting the Software PROVIDED THAT:
- i. You (and Your Approved IFA and Approved Users) shall not have done, permitted or suffered to be done anything which may have been or become an infringement of any rights in any copyright, patent, trade mark or other rights as hereinbefore provided, and
 - ii. You (and Your Approved IFA and Approved Users) shall have exercised a reasonable standard of care in protecting the same; and
 - iii. You have complied with Clause 16.2.

failing which, You shall indemnify Bluecoat against all actions, proceedings, costs, claims and expenses incurred in respect thereof.

- 16.2 You undertake that Bluecoat shall be given prompt notice of any claim specified in Clause 16.1 above that is made against and Bluecoat shall have the right to defend any such claims and make settlements thereof at its own discretion and You shall give such assistance as Bluecoat may reasonably require to settle or oppose any such claims.
- 16.3 In the event that any such infringement occurs or may occur, Bluecoat may at its sole option and expense:
- i. procure for You the right to continue using the Software or infringing part thereof; or
 - ii. modify or amend the Software or infringing part thereof so that the same becomes non-infringing; or
 - iii. replace the Software or infringing part thereof by other software of similar capability; or
 - iv. repay to You an appropriate proportion of the Fees relating to the whole or the infringing part of the Software.

17. Confidential Information

- 17.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's Confidential Information shall not be deemed to include information that:
- i. is or becomes publicly known other than through any act or omission of the receiving party;
 - ii. was in the other party's lawful possession before the disclosure;
 - iii. is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
 - iv. is independently developed by the receiving party, which independent development can be shown by written evidence; or

v. is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

- 17.2 Subject to clause 17.3 below each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Agreement.
- 17.3 You acknowledge that Bluecoat may share Your Confidential Information with Your Approved IFA and Approved Users.
- 17.4 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.
- 17.5 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 17.6 You acknowledges that details of the Services, and the results of any performance tests of the Services, constitute Bluecoat's Confidential Information.
- 17.7 Subject to clauses 17.3 and 8.5 Bluecoat acknowledges that Your Data is the Confidential Information of You.
- 17.8 This Clause 17 shall survive termination of this Agreement, however arising.

18. Force Majeure

Bluecoat shall have no liability to You under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Bluecoat or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that You are notified of such an event and its expected duration.

19. Term and Termination

- 19.1 This Agreement shall commence on the Commencement Date and continue for the Minimum Agreement Period and thereafter in accordance with Clause 19.2 below.
- 19.2 At the end of the Minimum Agreement Period, and at the election of Bluecoat, Bluecoat may agree to automatically renew this Agreement upon amended terms in which case Clauses 3.2, 3.3 and 12.2 above shall apply and the Term shall extend for a (further) Extended Period unless either party has served a Notice of Termination of this Agreement on the other side, in which case the Term shall terminate on the later of (i) the end of the Minimum Agreement Period and (ii) the date 6 months after the date on which the Notice of Termination was served.
- 19.3 In addition to the provisions for termination as herein provided, either party may by notice In Writing to the other terminate this Agreement if any of the following events shall occur:
- i. if the other party is in breach of any term, condition or provision of this Agreement or required by the applicable law and fails to remedy such breach (if capable of remedy) within 30 days of having received written notice of such breach from the party not in breach;
 - ii. if Your Approved IFA's Approved IFA Agreement terminates for any reason;
 - iii. if the other party, being a body corporate, shall present a petition or have a petition presented by a creditor for its winding up, or shall convene a meeting to pass a resolution for voluntary winding up, or shall enter into any liquidation (other than for the purposes of a bona fide reconstruction or amalgamation); shall call a meeting of its creditors, or shall

- have a receiver of all or any of its undertakings or assets appointed, or shall be deemed by the relevant statutory provisions under the applicable law to be unable to pay its debts; or
- iv. the other party suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986; or
- v. the other party (being an individual) is the subject of a bankruptcy petition or order.

19.4 In addition to the provisions for termination as herein provided, Bluecoat may by notice In Writing to You terminate this Agreement if You fail to pay any Fees within a period of thirty (30) days from it becoming due.

19.5 Upon termination, You shall (i) comply with the undertaking specified in Clause 11.2 iv above and shall pay to Bluecoat all costs and expenses, including legal and other fees incurred, the balance of all payments which would but for such termination have accrued due up to the earliest date on which the Agreement could have been terminated by You in accordance with the terms hereof and all arrears of fees, charges or other payments arising in respect of the Software, this Agreement or otherwise and (ii) complete such further paperwork and steps as Bluecoat may require.

19.6 Subject to Clause 19.7 below upon termination of this Agreement for any reason Bluecoat may:

- i. continue to retain and/or host Your Data on its systems; and
- ii. charge you a fee for retaining and/or host Your Data.

19.7 Where You give Bluecoat six months' notice In Writing (such notice expiring after the date of termination) that You wish Bluecoat to destroy Your Data or You wish Your Data to be provided to You, Bluecoat shall do so subject to your payment of an applicable administration fee in advance.

19.8 Notwithstanding Clause 19.6 above but subject to Subject to Clause 19.7 above, Bluecoat shall have the right to destroy all Your Data (and copies held thereof) upon termination of this Agreement for any reason.

19.9 Termination, howsoever or whenever occasioned shall be subject to any rights and remedies Bluecoat may have under this Agreement or in law.

19.10 The accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination shall not be affected or prejudiced.

20. Assignment

You shall not assign or otherwise transfer all or part of your rights and/or obligations under this Agreement without the Approval of Bluecoat.

21. Waiver

Failure or neglect by Bluecoat to enforce at any time any of the provisions hereof shall not be construed nor shall be deemed to be a waiver of Bluecoat's rights hereunder nor in any way affect the validity of the whole or any part of this Agreement nor prejudice Bluecoat's rights to take subsequent action.

22. Third Party Rights

A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

23. Headings

The headings of the terms and conditions herein contained are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of any of the terms and conditions of this Agreement.

24. Severability

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

25. Notices

- 25.1 Any notice required to be given under this Agreement shall be In Writing and shall be delivered to the other party at its address set out in the Registration Page, or such other address as may have been notified in accordance with Clauses 5.1 and 5.2.
- 25.2 Any notice served by Us will be sent to You In Writing.
- 25.3 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in Business Hours, at 9 am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by email shall be deemed to have been received at the time of transmission (or if delivery is not in Business Hours, at 9 am on the first Business Day following delivery) provided no error message is received.

26. Law

The parties hereby agree that the contract concluded between them and constituted under this Agreement shall be construed in accordance with the Law of England and Wales. The parties hereby agree to submit to the jurisdiction of the Courts of England and Wales in resolution of any issue under this Agreement and You agree that if You need to commence proceedings against Bluecoat under this Agreement You will do so at the High Court in London unless that Court lacks jurisdiction in the action.