

## 1 General Terms

Please find enclosed the contractual documents governing the provision of services by LucaNet. These documents form the foundation for your contractual relationship with LucaNet. The contractual documents referred to in the primary contract are comprised of the contractual terms (CT) and the data protection terms (DPT).

## 2 Scope of Application

1. The CT govern all contracts for the provision of services by LucaNet to Customers who are contracting in the capacity of:
  - A business person
  - A legal entity under public law
  - A special fund under public law
2. The CT also govern future contracts with the Customer in their originally binding version, irrespective of whether such future contract makes express reference to the CT.
3. LucaNet may modify the CT and shall in this case be required to notify the Customer of the proposed modifications. The modified CT become legally binding for all contracts upon receipt of said notification.
4. Departing, conflicting, or supplemental terms and conditions of the Customer will only form part of the contract if LucaNet has expressly consented to their applicability. The unreserved provision of services by LucaNet in awareness of the Customer's terms and conditions does not constitute an acknowledgment of their applicability.

## 3 Performance of Services and Performing Personnel

1. LucaNet will determine the personnel involved in the provision of its services at its reasonable discretion. The Customer may only request the replacement of specific persons for important reasons. The Customer does not have the right to issue instructions to any personnel working for LucaNet.
2. LucaNet is authorised to involve subcontractors in the performance of its services.
3. Distinguishable partial services are deemed owed in separate deliveries by LucaNet.
4. The parties undertake to refrain from actively recruiting any personnel working for the respective other party. Specifically and in detail:
  - a) For continuing obligations: During the term of the continuing obligation and for a period of 24 months after the continuing obligation has ended
  - b) In all other cases: For a period of 24 months from the date LucaNet has ended the provision of services.

In the event a party culpably infringes against the obligation imposed in the preceding sentences, the other party shall be entitled to terminate the services provided for in the primary contract for good cause with immediate effect and claim a contractual penalty in a reasonable amount.

## 4 Dates

1. Dates requested unilaterally from the Customer (e.g. in a purchase order) are considered preferred delivery dates. This also applies in cases where LucaNet does not expressly object against specific delivery dates requested by the Customer. Only delivery dates that have been mutually agreed are legally binding on LucaNet.
2. The legally binding delivery dates shall in the following cases be extended automatically and allow for an additional reasonable restart time:
  - a) The Customer, or a third-party attributable to the Customer, has failed to satisfy its contractual obligations to cooperate
  - b) Other impediments (e.g. force majeure, network failure, etc.) for which LucaNet is not at fault.

## 5 Personnel's Work Location

1. LucaNet's personnel will be deployed to work locations determined in mutual agreement between LucaNet and the Customer. The work will usually take place at a LucaNet office or onsite at the Customer.
2. In as far as LucaNet is required to perform work onsite at the Customer and such on-site work requires observance of special rules and regulations (e.g. access rules, safety regulations, etc.), the Customer shall inform LucaNet about such rules and regulations as well as their meaning in a timely fashion.
3. Works to the Customer's IT systems, including troubleshooting of errors or defects afflicting the services provided by LucaNet, will be carried out via remote access, unless there are compelling reasons against remote access.

## 6 Prices and Payment Terms

1. The prices quoted for the provision of services by LucaNet are exclusive of any relevant indirect taxes.
2. Invoices are due for payment within 30 days from the date of the invoice in their net amount, deductions are not permitted. Invoices will be issued electronically to the e-mail address provided by the Customer. The Customer undertakes to promptly notify LucaNet of any change in the e-mail address.
3. In the case of a payment default, LucaNet shall be entitled to charge default interest at a rate of 9% p.a. above the relevant base interest rate and demand payment of lump-sum costs of up to GBP 34.22 . LucaNet may also temporarily suspend its services until full payment has been received.

## 7 Indirect Taxes

1. If the national law in the Customer's country requires LucaNet to make payment of indirect taxes, the Customer shall support LucaNet in satisfying all related requirements and completing all related formalities.
2. All payments to LucaNet must be inclusive of indirect taxes. If the Customer is required to withhold indirect taxes, the Customer shall increase the payment amount as necessary to assure that LucaNet is paid the exact amount as was agreed in the primary contract as the price billable for the services provided.

3. If the withholding of taxes cannot be avoided, LucaNet shall reimburse the Customer for such taxes, provided LucaNet can claim an input credit on its own tax liabilities in United Kingdom. The reimbursement shall cover one calendar year and is payable within four weeks from receipt of the tax notice.

## 8 Customer's Obligations

1. The Customer is required to assist LucaNet in the provision of services by rendering a reasonable degree of cooperation. The Customer shall complete the agreed preparations for the provision of services by LucaNet in due time. The Customer's obligations to cooperate include but are not limited to the following obligations:
  - a) The Customer undertakes to provide contact details for the persons designated in the Annex to these General Terms and Conditions and to notify LucaNet of any changes. The legal contact person must be authorised to conduct business transactions on behalf of the Customer and to sign documents with binding legal effect. LucaNet is authorized to send all notices and information that concern the services provided by LucaNet to these contacts. These notices and information are deemed received by the Customer upon being received by the recipient. To allow the Customer to update these contact details whenever necessary, LucaNet is authorised to offer a self-service portal on its home page.
  - b) The Customer shall assure that knowledgeable persons authorised to make decisions are available at the agreed dates and allow LucaNet to carry out the works.
  - c) The Customer shall make suitable workstations for on-site works available to LucaNet personnel.
  - d) The Customer shall grant LucaNet the right and enable LucaNet to use the Customer's or a third party's systems and data and, in as far as required for the provision of services by LucaNet and not opposed by any important reasons, allow for access to said data in the Customer's network via remote access.
  - e) The Customer shall make access and use of Customer internal information, documents, or other information available in a suitable format as required for the provision of the services.
  - f) The Customer shall report malfunctions and/or defects afflicting the services provided by LucaNet in compliance with the Terms for Software Maintenance and Support.
  - g) The Customer shall familiarise itself with the essential functional characteristics of the software and bear the risk of these functional characteristics not meeting its requirements.
  - h) The Customer shall limit its use of the software to the customary limits as defined in the service description.
  - i) The Customer is responsible for the provisioning of a functional and adequately dimensioned hard and software environment. The information pertaining to the system environment requirements is not geared to any specific Customer and only intended to provide rough goalposts for the dimensioning of the system environment required for operating the software within customary limits. The necessary resources essentially depend on the type and intensity of the software's actual use by the Customer. Changed system requirements resulting from software maintenance may require the system environment to be updated in order to support new versions.
  - j) Before commencing productive use of the software, the Customer shall thoroughly test the software for defects and usability in the existing system environment.
  - k) The Customer shall take reasonable precautions for the event that all or part of the software fails to work properly, e.g. by regularly reviewing the results.
  - l) The Customer shall promptly notify LucaNet in the event of a third-party making claims for proprietary rights (e.g. copyright or patent rights) in the software.

2. The Customer shall satisfy the obligations to cooperation incumbent on it without incurring a charge.

## 9 Non-Disclosure

1. LucaNet and the Customer mutually undertake to refrain from disclosing confidential information and proprietary business information of the other party obtained during the contractual relationship and as a result of its performance, particularly including after the end of their cooperation, for an indefinite term. The parties further undertake to only use such information for purposes related to the performance of the respective contract and not to disclose such information to third parties. Third parties constitute those who are not employees, nor affiliate companies and their respective employees or consultants, so long as these parties are also subject to non-disclosure obligations.
2. The non-disclosure obligation does not apply to confidential information that:
  - a) Was or became part of the public domain at the time of being disclosed to the other party or thereafter without a breach of this non-disclosure obligation,
  - b) Was acquired without breaching the non-disclosure obligation by the other party from a third party who was not bound by confidentiality,
  - c) Has been independently developed by the other party,
  - d) Has been expressly released for disclosure by the other part, or
  - e) Must be disclosed under compulsory law or on the grounds of a judicial or administrative order.

## 10 Limitation Period

The limitation period for all guarantee claims asserted by the Customer against LucaNet for defective performances is one year from the commencement of the statutory limitation period. The statutory limitation periods shall apply to the following claims:

- a) Claims for breach of contract
- b) Negligence;
- c) Fraud;
- d) Claims for personal injury; and
- e) Claims under the Consumer Protection Act.

## 11 Liability

1. LucaNet shall bear liability under the statutory provisions for the following types of damage incurred by the Customer:
  - a) Damages caused by the willful intent or gross negligence of LucaNet or its subcontractors;
  - b) Personal injury; and
  - c) Damages and losses under the Consumer Protection Act

2. LucaNet shall only bear liability for damages incurred by the Customer as a result of slight or simple negligence if the damage was caused by an infringement against a material contractual obligation. Material contractual obligations are contractual obligations whose satisfaction render the proper performance of the contract possible in the first place, and on the satisfaction of which the Customer is and was ordinarily entitled to rely. Any liability of LucaNet under this provision for simple negligence is limited to the damages that are typically foreseeable for the relevant contract. Any further liability of LucaNet for slight or simple negligence is excluded.
3. The provisions stipulated in the preceding subclauses apply analogously for a limitation of LucaNet's liability to compensate the Customer for futile expenditure (Sales of Goods Act 1979) .
4. LucaNet as the lessor shall not bear strict liability for defects that were already present at the time of contracting.
5. The above liability limitations also apply for the benefit of LucaNet's subcontractors.
6. LucaNet shall not be held liable for interrupted availability caused by a force majeure event. Force majeure events include theft, general malfunctioning of the Internet, or other circumstances that are unforeseeable and not caused by LucaNet. LucaNet shall, in as far as possible and reasonable under the prevailing circumstances, notify the Customer of the occurrence of a force majeure event.
7. LucaNet shall not bear liability for any defects afflicting pre-release versions. LucaNet's liability is strictly limited to software versions that have been assigned "General Availability" (GA) status. Pre-release versions, beta versions and versions no longer supported by LucaNet are used at the Customer's own risk and own responsibility.
8. LucaNet reserves the right to plead contributory negligence. The Customer shall in this respect observe the obligations pursuant to clause 8.

## 12 Rectification of Defects

1. LucaNet's warranty is exclusively limited to defects afflicting LucaNet's proprietary software. Warranty claims for defective third-party software delivered or otherwise made available free of charge to the Customer by LucaNet are excluded. This in particular includes the Java runtime environment made available by LucaNet free of charge.
2. LucaNet will only cover defective software under warranty if the software is used reasonably and within customary limits, as well as in conformity with the service description.
3. LucaNet will initially attempt to rectify a technical defect by rendering subsequent performance. LucaNet may at its sole discretion render subsequent performance in the following ways:
  - a) LucaNet provides the Customer with a new and defect-free version of the software (substitute delivery)
  - b) LucaNet rectifies the defect (subsequent improvement)

A defect shall be deemed rectified if LucaNet provides the Customer with a reasonable workaround method for the defect.

4. LucaNet will initially attempt to remedy a defective title by rendering subsequent performance. LucaNet may at its sole discretion render subsequent performance in the following ways:

- a) LucaNet provides the Customer with a legally unobjectionable way of using the software.
- b) LucaNet makes substitute delivery of a software that is no longer afflicted by a defective title to the Customer.

The substitute delivery may, in as far as reasonably acceptable to the Customer, also consist of the delivery of a new software version with at least a similar range of functions. The effort involved in having to retrain the Customer in the software shall not be deemed unreasonable. The Customer's rights with regard to compensation for expenditure incurred pursuant to the Sales of Goods Act 1979 remain unaffected.

5. LucaNet may require the Customer to pay a reasonable compensation for troubleshooting efforts carried out by LucaNet outside of its contractual obligations and at the Customer's express request. This applies in particular if:

- a) A reported technical defect is not reproducible/cannot be evidenced
- b) A reported technical defect is not attributable to LucaNet, or
- c) The software is used unreasonably and/or outside of the customary limits, or in non-conformity with the service description.

## 12.1 Rectification of Defects for License Purchases

1. The Customer shall report a defective software and/or the associated documentation to LucaNet promptly.
2. The Customer may grant LucaNet a reasonable grace period to render subsequent performance in the case of a significant defect, as well as a reasonable additional grace period in the event of unsuccessful subsequent performance. In the event that LucaNet's attempts at rendering subsequent performance within the grace period fail, the Customer may rescind the contract or reduce the agreed price. LucaNet's liability is limited in accordance with clause 11.
3. The Customer is not entitled to demand rectification of a defect from LucaNet for pre-release versions. The rectification of defects by LucaNet is strictly limited to software versions assigned "General Availability" (GA) status. Pre-release versions, beta versions, and versions no longer supported by LucaNet are used at the Customer's own risk and own responsibility.

## 12.2 Rectification of Defects for SaaS Delivery

1. LucaNet must rectify defective software in accordance with the preceding clauses.
2. The Customer does not have a right to terminate the contract, unless the contractual use available is deemed failed.

3. Efforts at making contractual use available shall be deemed failed if, within four weeks from receipt of the notice of defects, LucaNet:
  - a) Rectifies a significant defect or
  - b) Makes a suitable workaround solution available

This only applies if the Customer has duly performed its obligations to cooperate. The Customer is not entitled to terminate the contract due to insignificant defects.

## 12.3 Service Level Agreement for Rectification of Defects

1. LucaNet guarantees the following response times:

Category	Error description	Response time
<b>Block</b>	The software is unavailable in its entirety, or its functionality is severely limited.	3h
<b>Critical</b>	A significant defect is a defect that significantly affects the software's productive use and for which no reasonable workaround that would deliver a comparable result is available.	5h
<b>Low</b>	Any error not classified as <b>block</b> or <b>critical</b> .	8h

2. The response time is the period within which LucaNet is required to confirm receipt of a support request to the Customer and issue a ticket number. This period commences upon receipt of a support request within the agreed service opening hours (see Terms for Software Maintenance and Support). The period is exclusively limited to the agreed service opening hours. The response time for support requests received outside of support opening hours commences at the beginning of the next service opening hours.

## 13 Terms and Conditions for Other Services

### 13.1 Definition

The subject matter of the contract covers all services not provided for in the Terms of Service, e.g:

- Software implementation and adjustments at the Customer
- Advising the Customer on technical requirements or problems
- Conduct of training measures
- In the case of a termination of LucaNet.Cloud, the migration of the stored Customer data to another system specified by the Customer

### 13.2 Prices and Payment Terms

1. Services will be billed in accordance with the LucaNet price list on the basis of actual times and expenses incurred.

2. Cost estimates prepared by LucaNet are non-binding.
3. The prices are due for payment within 30 days from the date of the invoice.
4. The following applies if the Customer cancels an appointment made for the provision of services:
  - Cancellations within six work days prior to the agreed date will be billed at 50% of the agreed price.
  - Cancellations within three work days prior to the agreed date will be billed at 100% of the agreed price.

Customers who have cancelled appointments are not entitled to subsequent performance of the agreed services by LucaNet.

## 13.3 Rights of Use

1. Where proprietary services of LucaNet relate to other services rendered by LucaNet (e.g. training materials), the Customer will, subject to a deviating agreement, be granted non-exclusive rights of use for the contractually stipulated utilisation of such services.
2. The rights of use granted in the preceding sentence are in all cases subject to the condition precedent of the Customer having made full payment of the prices agreed for the respective services.

## 14 Choice of Law and Place of Jurisdiction

The primary contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the primary contract or its subject matter or formation.

## 15 Amendment of the Provisions Concerning Continuing Obligations

1. LucaNet is authorized to amend the CT governing continuing obligations in accordance with the following provisions.
2. The Customer shall be notified of any amendment to the CT in writing (also see clause 18 of these General Terms and Conditions).
3. The Customer has the right to object against an amendment of the CT. The Customer shall declare its objection to LucaNet in writing and within six weeks from receipt of a notice from LucaNet. This period is only deemed complied with if the objection is received by LucaNet within the same period. If the Customer does not object in due time and form, the amendments are deemed approved and the amended CT will become part of the contract. LucaNet's notice of amendment will expressly advise of the date and formal requirements for the objection.



4. The CT shall remain unchanged if the Customer objects against the amendments in due time and form. LucaNet may in this case terminate the primary contract within a period of six weeks from receipt of the Customer's objection if continuing the unchanged contract is commercially or technically infeasible or impossible for LucaNet. The termination will take effect six weeks after receipt of the termination notice by the Customer.

## 16 Arbitration

1. With respect to disputes resulting from the primary contract or the CT, the parties agree to arbitrate such disputes in accordance with the rules of arbitration of the of the Arbitration Act 1996 before seeking recourse to the ordinary courts of law. The arbitration proceedings shall be conducted with the objective of resolving the dispute fully or partly and ultimately or temporarily.
2. The period from the application for arbitration proceedings until the end of such proceedings is excluded from the calculation of the limitation period for all claims..
3. The parties confirm that the instigation of arbitration proceedings is not a requirement for seeking recourse to the ordinary courts of law, regardless of whether the principal proceedings or proceedings for interlocutory injunctions are concerned.

## 17 Export Controls

1. Software and IT services may be subject to export laws and regulations. Approval requirements may apply. The use of the software or technologies associated with it may be subject to restrictions in foreign countries.
2. The Customer is required to comply with all export control regulations applicable to services rendered by LucaNet.
3. Performance of the contract by LucaNet is conditional on the absence of performance impediments resulting from national and international export law regulations and/or other statutory requirements.

## 18 Other

1. Agreements between LucaNet and the Customer as well as all modifications and amendments to the primary contract require the written form. For the avoidance of doubt, the agreement may be executed in any number of counterparts, each of when executed shall constitute a duplicate original, but all counterparts shall together constitute the one agreement.
2. Declarations made by the parties (e.g. purchase orders, termination notices etc.) are only legally effective if expressed in a written instrument (e.g. in an e-mail, fax, or letter).
3. LucaNet is authorised to disclose the Customer's name as a reference Customer in publications of any kind.
4. In the event one or a number of provisions agreed between the parties are or become legally ineffective, the legal effectiveness of the remaining provisions shall remain unaffected.

5. LucaNet makes no “guarantee” to the customer unless LucaNet uses the term “guarantee”. If LucaNet uses the term “guarantee”, a guarantee in the legal sense can only be understood if the relevant provision expressly states that this paragraph is dispensed with.
6. This agreement is personal to the customer and the customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under agreement with LucaNet including these terms and conditions, without prior written consent from LucaNet.
7. LucaNet may, at any time, assign transfer, mortgage, charge, subcontract , delegate, declare a trust over or deal in any other manner with any of its rights and obligations under agreement with the customer including these terms and conditions.
8. LucaNet shall not be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond LucaNet’s reasonable control. In such circumstances the time for performance shall be extended by a reasonable period of time to allow for the performance of LucaNet’s obligations. If the period of delay or non-performance continues for 3 months, the customer may terminate this agreement by giving one month’s written notice to LucaNet.
9. No failure or delay by LucaNet to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
10. LucaNet’s rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.
11. The Limitation periods under the Limitations Act 1980 shall apply to this agreement.
12. Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party. Each party is acting on its own behalf and not for the benefit of any other person.
13. This agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.
14. This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

# Annex I - Points of contact of the customer



The customer's points of contact are to be entered in the following table, see GTC Section 8.

Contact	Name	Position	E-mail address
Technical contact			
Technical point of contact			
Legal point of contact			
E-mail address for electronic invoicing	n/a	n/a	