



...making excellence a habit.™

**ENTROPY™ SOFTWARE
TERMS AND CONDITIONS
EMEA**

1 TERMS & CONDITIONS

Section 1 – Specification

1. These terms form part of the Specification and all services provided under it are subject to these terms.
2. The specification and these terms are referred to as “this agreement”.
3. The specification sets out the scope & delivery of services BSI performs for you by providing Entropy.

Section 2 – Responsibility

1. You accept responsibility for the selection and due diligence of Entropy to achieve its intended results.
2. You have added to the specification any specific requirements. If nothing added then BSI may assume that you do not wish such a requirement to be provided.
3. You accept responsibility to provide BSI with all information reasonably requested in a timely manner to ensure the scope and delivery of service of the specification.
4. BSI will not be liable for any delays or failure to meet obligations due to your delay in providing the information requested.

Section 3 – Ownership

1. Entropy is not for sale and remains the property of BSI (all rights, titles & interest).
2. You have been granted a limited right access to use Entropy, subject to the terms of this agreement.

Section 4 – License & Obligations

1. Initial Term – As stated in the specification, in general it is 3 years unless otherwise stated.
2. License – This is a non-exclusive & non-transferable license to use Entropy, subject to this agreement.
3. Use – You may only use it and host it as mentioned in the specification.
4. Backup – Backup copies are taken if hosting is done by BSI. If client hosts Entropy then backup copies is their responsibility and BSI cannot be liable. All copies must be deleted on termination of the agreement.
5. Prohibitions - Unless otherwise agreed, you shall not: copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to Entropy; sub-license, assign or novate this agreement or any right granted under it; subject Entropy to any charge, lien or encumbrance.
6. Users & Locations – You shall ensure that only the number specified in the specification may use Entropy.
7. Access to Entropy – You shall provide BSI with timely access in order to facilitate any administration, management, maintenance or updates. If BSI does not have such access then we will not be able to support you. If “accompanied” remote access is required then such access will occur at a date and time convenient for both parties. This may result in extra charges being payable.
8. Unauthorized Use – You shall notify us as soon as you are aware of any unauthorized use/access of Entropy.
9. Export – You will not export Entropy to any country for which a validated license is required for export, without first obtaining such a license from BSI.

Section 5 – Services Provided

1. As part of the specification BSI will provide various services – project planning, configuration, training, report building and more (if applicable).
2. These services will have dates associated to them and as such be agreed by the client and the BSI staff member doing the implementation. Once these dates have been agreed, if the client wishes to change a date then 25 days - notice needs to be given unless it is an unforeseen circumstance.
3. If Client does not given 25 days-notice then full day rate fees can be applied (at BSI's discretion).
4. If BSI wish to amend, cancel or change a date due to unforeseen circumstances then BSI will provide alternative dates and times at no additional fees.
5. All services as laid out in the specification are to be used within 6 months of the contract signature date on a “use or lose” basis.
6. As part of the configuration process BSI will ask you to review the configuration work and sign it off as being as intended (via email). BSI kindly ask for this to be completed within a maximum of 2 weeks of that work being completed to avoid any possible delays. If not completed in that time frame then BSI reserves the right to assume that the work has been completed as intended.

Section 6 – Termination of the Agreement

1. If you wish to terminate the agreement you need to inform BSI in writing via letter or email with no less than **60 days-notice**.

2. Unrealised value as mentioned below means the value of the contract that you have not paid.

3. If termination occurs during year 1 of the initial agreement period then you agree to pay 50% of the unrealised contract value.

4. If termination occurs during year 2 of the initial agreement period then you agree to pay 40% of the unrealised contract value.

5. If termination occurs during year 3 of the initial agreement period then you agree to pay 30% of the unrealised contract value.

6. If termination occurs after the initial agreement period then you agree to pay the 60 day notice period fee.

7. Termination immediately by either party without prejudice to any rights that have accrued under the agreement, either party may terminate the agreement immediately if:

- the other party fails to pay any amount under the agreement on the due date for payment and it remains unpaid 30 days after the defaulting party has received notice calling for the overdue payment; or
- the other party is in breach of any material obligation of the agreement and such breach remains unremedied, if such breach is capable of remedy, after 30 days from the date of notification to the defaulting party of such breach, or immediately upon notice to the defaulting party if such breach is incapable of remedy; or
- the other party is unable to pay its debts as they fall due, or it suspends the payment of its debts, or it makes a proposal to its creditors to reschedule any of its debts; or it takes any action in connection with its winding up or suffers the appointment of an administrator or an administrative receiver; or enters into bankruptcy in any jurisdiction; or someone takes action to attach or take possession of any of its assets; or it stops the business it was doing at the time of entering into the agreement; or it becomes insolvent or is wound up; or any event occurs, or proceeding is taken, in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in this paragraph.

8. Once stating that you wish to terminate, it is your responsibility to inform BSI if you wish to receive your data back as a SQL database or wish to have a period of time to download/export from the system any records required. This period of time may be chargeable, subject to how much time is required.

Section 7 – Hosting by BSI

1. Hosting - Provided by BSI is via a third party provider.

2. Availability – BSI will do all that is reasonable to ensure that hosting remains available to you throughout the agreement or on-going renewal period. This is subject to availability of internet service to BSI and our third party.

3. Scheduled Outages – BSI will try and ensure all scheduled outages occur with at least 24 hours email notice.

4. Unscheduled Outages – BSI will try and ensure that unscheduled outages do not exceed the following: 201 minutes in a 28 day month, 208 minutes in a 29 day month, 216 minutes in a 30 day month, 222 minutes in a 31 day month.

5. Any unscheduled outages over and above those stated, BSI will use all reasonable endeavors to ensure this delay is as minimal as possible.

6. BSI shall not be responsible for any outages or performance issues caused by software bugs or through the application of code not supplied by us or due to hardware failure belonging to you.

7. Any maintenance services conducted out of business hours shall not be considered as an outage.

8. Backups – BSI will take full weekly and daily backups.

Section 8 – Hosting by Client

1. Backups – Client is responsible for all backups, whether daily or weekly or other as per section 4 point 4.

2. Access – Client will provide BSI access as per section 4 point 7.

Section 9 – Data in the European Union

1. Both parties will comply with all applicable requirements of the Data Protection Legislation, which is defined as European Community Directive 95/46/EC and Directive 2002/58/EC, Regulation (EU) 2016/679 (The General Data Protection Regulation) and any legislation in force from time to time which implements them and any other similar national privacy legislation and guidance issued by data protection regulators or applicable approved codes of conduct.

2. Each party shall notify the other promptly (and in any event within 24 hours) if it discovers any actual or suspected personal data breach (as defined in the Data Protection Legislation) involving personal data provided to it by the other party, or if it receives any complaint, request or other communication relating to the processing of any such personal data in connection with this agreement.

Section 10 – Maintenance

3. This refers to fault and failure logging.
4. Fault/failure logging can take place via phone or email.
5. When a fault/failure is logged, BSI will give the issue its own unique reference number.
6. BSI will endeavor to respond to a fault/failure between 4-10 hours (during business hours).
7. BSI will endeavor to provide a time estimate to resolve the fault/failure as soon as reasonable possible.
8. BSI will endeavor to fix, correct or provide a solution for faults/failures as soon as reasonably possible.
9. If BSI requires remote access to your system or a copy of the database you will provide this in a timely manner so as not to delay things.
10. BSI is not obligated to resolve faults/failures that in BSI's sole discretion is not considered material to the overall functionality of Entropy.
11. If BSI is unable to recreate a fault/failure while investigating it, then best endeavors will be done to help resolve as soon as reasonably possible. BSI reserves the right to charge a fee for dealing with these situations.
12. If fault/failure is due to client user error or modifications to Entropy, BSI reserves the right to charge a fee for dealing with these situations.

Section 11 – Enhancement

1. This refers to updates made to Entropy by BSI.
2. These updates are generally made available free of charge to you whilst you maintain paying your annual fees.
3. Enhancements are generally made 4-6 times per year.
4. BSI reserves the right to charge additional reasonable fees for Enhancements which add substantial functionality or improved performance (such as mobility).

Section 12 – Support Services

1. Support requests whether maintenance related or not can be done via email or phone.
2. Email entropy.support@bsigroup.com or call 0345 504 9524.
3. Support hours are Monday to Friday 9am to 5pm (UK time zone).
4. Each support request will receive its own unique reference number.
5. BSI will endeavor to respond between 4-10 hours (during business hours).
6. You are entitled to an unlimited number of maintenance requests and a 5 hour limit of user guidance/training requests.
7. If you exceed the 5 hour limit then BSI reserves the right to charge on a 5 hour block basis (£405).
8. BSI will provide assistance as error free as possible, but errors can occur and BSI is not liable.
9. BSI will provide support services to specific people only within the client.
10. The client will provide an up to date list of their specific people. A maximum of 5 per client.

Section 13 – Intellectual Property

1. BSI warrants and represents that we hold full legal title to Entropy and that we have the right to grant the license to you in this agreement.
2. You acknowledge that all intellectual property rights in Entropy and any maintenance releases belong (and shall belong) to BSI, and you shall have no rights in or to Entropy other than the rights granted to you in this agreement.
3. BSI undertakes at its own expense to defend you or, at our option, to settle any claim or action brought against you to the extent only that it alleges that the possession, use, development, modification or maintenance of Entropy (or any part of it), in accordance with the terms of this agreement, infringes the intellectual property rights of a third party (referred to as a Claim) and shall be responsible for any reasonable losses, damages, costs (including reasonable legal fees) and expenses incurred by or awarded against you as a result of or in connection with any such Claim. This undertaking shall not apply where the Claim in question is attributable to:
 - your possession, use, development, modification or maintenance of Entropy (or any part of it) other than in accordance with the terms of this agreement; or
 - through the use of Entropy in combination with any hardware or software not supplied or specified by BSI if the infringement would have been avoided by the use of Entropy had not been not so combined; or
 - the use of a non-currently supported release of Entropy.

4. If any third party makes a Claim, or notifies an intention to make a Claim against you, our obligations under section are conditional on:

- you giving us written notice of the Claim as soon as reasonably practicable and in any event within 10 working days of your becoming aware of the Claim, specifying the nature of the Claim in reasonable details;
- you not making any admission of liability, agreement or compromise in relation to the Claim without our prior written consent (which we will not unreasonably withhold or delay);
- you giving BSI and its professional advisers access at reasonable times (on reasonable prior notice) to your premises and to your personnel, representatives or advisers, and to any relevant assets, documents and records, so as to enable BSI and its professional advisers to examine them and to take copies (at our expense) for the purpose of assessing and defending the Claim; and
- (subject to BSI providing you with an undertaking for costs which may be incurred) you taking such action as BSI may reasonably request to avoid, dispute, compromise or defend the Claim.

5. If any Claim is made, or in BSI's reasonable opinion is likely to be made, against you, BSI may at its sole option and expense:

- modify Entropy so that it ceases to be infringing; or
- terminate this agreement immediately by notice in writing to you and refund any of the Fee paid by you as at the date of termination (less a reasonable sum in respect of your use of Entropy to the date of termination) on return of Entropy and all copies of it,

6. This constitutes your exhaustive remedy and BSI's only liability in respect of a Claim and is subject to the limitation of our liability.

7. You shall retain all Intellectual Property Rights in any materials provided by you to BSI. You grant to BSI a license to such Intellectual Property Rights to the extent required to perform our obligations under this agreement.

8. You shall indemnify BSI against all damages, losses and expenses arising as a result of any action or claim that the materials you provide to BSI under this agreement infringe any Intellectual Property rights of a third party.

Section 14 – Confidentiality

1. Each party undertakes to the other that it shall not, at any time during this agreement, and for a period of five years after termination of this agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party.

2. Each party may disclose the other party's confidential information:

- to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement provided that each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this obligation; and
- as may be required by law, to a court with appropriate jurisdiction or to any governmental or regulatory authority.

3. No party shall use any other party's confidential information for any purpose other than to perform its obligations under this agreement.

4. On termination of this agreement, each party shall:

- erase all the other party's confidential information from computer and communications systems and devices used by it, including such systems and data storage services provided by third parties (to the extent technically practicable); and
- inform the other party that it has done this, provided that BSI may retain documents and materials containing, reflecting, incorporating or based on your confidential information to the extent required by law or any applicable governmental or regulatory authority. The provisions of this section H shall continue to apply to any such documents and materials retained by BSI.

5. BSI may permanently retain anonymised data for its records, research and development activities and it will not be subject to obligations of confidentiality in relation to such data.

Section 15 – BSI limitation of liability

1. BSI is not liable for any delay, fault or deficiency in the material or service for which you are responsible. If you do not purchase Hosting Services, we shall not be liable for any delay, fault or deficiency resulting from or caused by your hosting environment. We will not be liable for any amendments or modifications that you may make to Entropy.
2. Our liability to you shall not be limited for: death or personal injury caused by our negligence, or the negligence of our employees; or fraud or fraudulent misrepresentation caused by us or our employees.
3. Except for those causes set out in this agreement, under no circumstances whatever shall we be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of goodwill, or any indirect or consequential loss arising under or in connection with this agreement.
4. Our total liability to you in respect of all other losses arising under or in connection with this agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed an amount equal to the fees payable by you during the Initial Term.
5. The limitation of our liability to you shall survive the termination of this agreement.

Section 16 – Term

1. This agreement shall commence on your signature of the Specification and shall continue until expiration of the Initial Term.
2. After the Initial Term, this agreement shall continue for subsequent terms of one year which shall automatically renew each anniversary of the expiration of the Initial Term unless either party shall give to the other not less than **60 days** prior written notice to terminate.

Section 17 - Fees

1. You agree to pay the fees for all of the Services that you are purchasing as set out in the Specification.
2. You will pay every undisputed invoice submitted to you by BSI within the number of days stated on the Specification in full and in cleared funds to a bank account nominated by BSI.
3. BSI may increase all Fees on an annual basis on each anniversary of the date of expiry of the Initial Term. The increase in the Fees shall be in line with the percentage increase in the retail prices index as published by the Office for National Statistics in the United Kingdom in the preceding 12-month period. The first such increase shall take effect on the date of expiry of the Initial Term.
4. BSI does reserve the right to increase beyond these percentages and would give you 30 days -notice of that effect.
5. All fees are exclusive of sales or value added tax or other tax that may be applicable at the time of invoice. If applicable, you will, on receipt of a valid tax invoice from BSI, pay to BSI such additional amounts in respect of tax as may be chargeable at the same time as payment is due for the supply of the Services.
6. If you fail to make a payment due to BSI by its due date, we may charge interest on the overdue amount at the rate of 2.5 per cent a year above the London Inter-bank Offer Rate current on the day your payment become due, accruing on a daily basis from the due date until the date of actual payment, which will be compounded monthly.
7. All amounts due under this agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

Section 18 – General

1. General Warranty - BSI warrants that the Services will be performed in a professional manner. Except for any express warranties given by BSI in this agreement, BSI makes no other representations or warranties, either express or implied, with respect to the Services, and disclaims all representations, warranties and conditions, including all implied warranties and conditions of merchantability, fitness for a particular purpose, and noninfringement and all other representations and warranties arising from a course of dealing, usage or trade practice. BSI specifically disclaims any representation or warranty that any Service will meet your requirements or will operate in combinations or in a manner selected for use by you, or that any Service will be error-free, or the operation of any Service will be uninterrupted.
2. Force Majeure - Neither party shall 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 its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for more than six weeks, the party not affected may terminate this agreement by giving one month's written notice to the affected party.

3. Assignment - Neither party shall assign, transfer or deal in any other manner with its rights and obligations under this agreement without the prior written consent of the other party. However, either party may, after having given written notice to the other party, assign or transfer its rights and obligations under this agreement to a member of its group of companies for so long as that company remains a member of the assignor's group. In such a case, a party assigning its rights under this agreement may disclose to the assignee any information in its possession that relates to this agreement and the other party which it is reasonably necessary to disclose for the purposes of the proposed assignment, provided that no disclosure pursuant of such information is made until notice of the identity of the proposed assignee has been given to the other party.

4. Entire Agreement - This agreement is the entire agreement between us and supersedes and extinguishes all previous agreements or representations made between us relating to Entropy.

5. Variation - No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

6. Waiver - No failure or delay by a party 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.

7. Severance - If any provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision shall be deemed deleted. Any modification to or deletion of a provision under this section shall not affect the validity and enforceability of the rest of this agreement.

8. Notices - Any notice given to a party under this contract shall be in writing and shall be delivered by hand, or sent the fastest method available in the post, or by email. If delivered by hand or by email, the notice shall be deemed received immediately. If sent by post, it shall be deemed to have been received three business days from the date of dispatch.

9. Third Party Rights - No one other than a party to this agreement and permitted assignees shall have any right to enforce any of its terms.

10. Governing Law - English law shall govern this agreement and the English courts shall have non-exclusive jurisdiction.

Section 19 – Terminology / Definitions

1. BSI / We / Our - The BSI company with whom you have signed the Specification.

2. You / Your - The party who has signed the Specification and who is buying Entropy and related services from BSI.

3. Entropy - The software solution sold by BSI and called Entropy, and this definition applies to licensed software, or subscription for hosted services, as the case may be.

4. Initial Term – As defined in section 4.

5. Services - All of the services that you are buying from BSI under this agreement, listed in the Specification.

6. Specification - The specification attached to these terms, signed by the parties, and setting out the parties, the scope of services, the pricing, the Initial Term and any other pertinent information relating to this agreement.

Revision History

Revision No.	Date	Author	Approved By	Changes
1.00	05 July 2018	Jonathan Waters	Zoe Lutkevitch	
1.01	18 June 2021			Section 7 8.Backups