

# BCIS Subscription Contract

**THIS CONTRACT is made the [13/04/2022]**

## **Between:**

- 1.** The Royal Institution of Chartered Surveyors incorporated by Royal Charter (Royal Charter number RC 000487) whose principal place of business is at 12 Great George Street, Parliament Square, London SW1P 3AD ("RICS"); and
- 2.** Valuation Office Agency 8th Floor, 10 South Colonnade, London, E14 4PU ("you").

## **Special Conditions**

**Your BCIS Subscription will be subject to our general terms and conditions (available at: <https://www.rics.org/uk/footer/terms--conditions-of-sale/>) and these Special Conditions (together, the "Contract"). You should read both of these documents together. Unless otherwise stated in these Special Conditions, the defined terms in our general terms and conditions shall apply here also. In the event of any conflict or inconsistency between these documents, these Special Conditions shall take precedence.**

### **1. Interpretation**

**1.1 In addition to the defined terms used within our general terms and conditions, the following definitions apply to these Special Conditions:**

**Authentication Method:** any authentication details in whatever form issued or supplied by RICS in order to access the Service.

**Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**Charges:** £132,406.20 (including VAT).

**Customer System:** any information technology system or systems owned or operated by you from which Data is received in accordance with these terms.

**Customer User:** any employee (or where relevant, student) of yours authorised by you to access and use the Services (wholly or in part), using his own Authentication Method provided by RICS.

**Customer User Restrictions:** the obligations set out in clause 2.3.

**Data:** all data and information contained within BCIS in whatever form the provision of which comprises the Services (wholly or in part).

**Derived Data:** any Data (wholly or in part) Manipulated to such a degree that it:

cannot be identified as originating or deriving directly from the Data or the Services and cannot be reverse-engineered such that it can be so identified; and

is not capable of use substantially as a substitute for the Data or the Services.

**Distribute:** to make Data accessible (including the provision of access through a database or other application populated with the Data, re-selling, sub-licensing, transferring or disclosing the Data) by any means, including any electronic means, to any Customer User.

**Educational Subscription:** a subscription to use the Services in your capacity as an educational institution and indicated as such (if applicable) within your Order.

**Input Data:** any data relating to building costs supplied to RICS by you or a Customer User (by way of use of or otherwise in connection with the Services).

**Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Licence:** the licence granted in clause 2.

**Manipulate:** to combine or aggregate the Data (wholly or in part) with other data or information or to adapt the Data (wholly or in part).

**Manipulated Data:** any Data which has been Manipulated. Manipulated Data includes any Derived Data.

**Normal Business Hours:** 0900 to 1800 GMT on a Business Day.

**Order:** the electronic order form specifying amongst other things the form of licence to be purchased by you pursuant to the Contract.

**Permitted Site:** the office or other business premises identified within the Order or if no such office or business premises is identified in the Order, your registered office.

**Services:** the subscription services and corporate licence to access the Data.

**Subscription Term:** The term stated within the Order or if no such term is stated, 36 months.

## **2. Licence**

**2.1** In consideration of your payment of the Charges, RICS grants to the Customer a non-exclusive, non-transferable, revocable, licence during the Subscription Term, subject to the Customer User Restrictions for the Customer Users to:

**access, view and Manipulate Data and create Derived Data;**

**store the Data and Manipulated Data on the Customer System;**

**Distribute the Data and Manipulated Data to Customer Users on the Customer System; and**

**transmit extracts of the Data to your customers or clients to the extent reasonably necessary for the purpose of providing advice in the usual course of your business activities unless you have purchased an Educational Subscription in which case this clause 2.1(d) shall not apply.**

**2.2** Except as expressly provided in the Contract, you shall not redistribute the Services (wholly or in part).

**2.3** You shall (and procure that the Customer Users shall):

**limit access to the Services to the Customer Users;**

**not access the Services at any location other than the Permitted Sites (Customer Users may use the Services while off site if their normal place of work is the Permitted Site);**

**only make copies of the Data to the extent reasonably necessary for the following purposes: back-up, security, disaster recovery and testing;**

**not use the Services for any purpose contrary to any law or regulation or any regulatory code, guidance or request;**

**not extract, reutilise, use, exploit, redistribute, disseminate, copy or store the Data for any purpose not expressly permitted by the Contract; and**

**(where you have purchased an Educational Subscription), not use the Services in the course of any commercial activity whether on behalf of you, the Customer User or any employer or other third party.**

**(The Customer User Restrictions).**

### **3. Charges**

**3.1 In consideration of the provision of the Services by RICS, you shall pay the Charges.**

**3.2 If any additional Customer User(s) is/are enabled during any Subscription Term and such additions result in the total number of Customer Users exceeding the authorised number stated within the Order or you wish to use the Services at premises other than the Permitted Site, RICS reserves the right to charge you in respect of such Customer User(s) at RICS' standard charges as amended from time to time.**

**3.3 The Charges shall be due in full to RICS annually in advance. Time shall be of the essence regarding your obligations to make payments in accordance with this clause 2 and such obligations are material obligations for the purpose of clause 10.2(b).**

**3.4 RICS shall be entitled to issue its invoice to you at the commencement of the Subscription Term. Where RICS has agreed to extend credit terms to you, you shall pay each invoice submitted to you by RICS, in full and in cleared funds, within 30 days of receipt to a bank account nominated in writing by RICS.**

**3.5 RICS may charge interest at an annual rate of 4% above the base rate of Barclay's Bank Plc, calculated on a daily basis in respect of any sum which is due and unpaid, that interest to run from the date on which that sum is due and payable until receipt by RICS of the full amount, whether before or after judgment.**

**3.6 All Charges are exclusive of VAT or any other applicable sales tax, which shall be paid by you at the rate and in the manner for the time being prescribed by law.**

#### **4. Audit**

**You shall permit RICS and its third party representatives, on reasonable notice during Normal Business Hours, but without notice in case of any reasonably suspected breach of this clause 4, to gain (physical and remote electronic) access to, and take copies of, any information held at your premises or on the Customer System relating to the use, Distribution, Redistribution, permissioning and control of the Data and the Services, for the purpose of auditing your compliance with your obligations under the Contract including the Customer User Restrictions. Such audit rights shall continue for one year after termination of the Contract. You shall give all necessary assistance to the conduct of such audits.**

#### **5. Unauthorised use**

**5.1 If any unauthorised use is made of the Data and such use is attributable to the act or default of, or through, you (including breach of any Customer User Requirements) then, without prejudice to RICS' other rights and remedies, you shall immediately be liable to pay RICS an amount equal to the Charges that RICS would have charged, had RICS or you (as the case may be) authorised the unauthorised user at the beginning of the period of that unauthorised use together with interest at the rate provided for in clause 3.5 from the date of that unauthorised use to the date of payment.**

**5.2 Without prejudice to any other right or remedy it may have, RICS reserves the right to suspend your access to the Services in the event that it has reasonable grounds to believe that unauthorised access or usage of the Data has occurred pending investigation by RICS.**

#### **6. Security and passwords**

**6.1 You shall ensure that the Data are kept secure and shall use the best available security practices and systems applicable to the use of the Data to prevent, and take prompt and proper remedial action against, unauthorised access, copying, modification, storage, reproduction, display or distribution of the Data.**

**6.2 If you become aware of any misuse of any Data, or any security breach in connection with the Contract that could compromise the security or integrity of the Data or otherwise adversely affect RICS or if you learn or suspect that any Authentication Method has been**

revealed to or obtained by any unauthorised person, you shall, at your expense, promptly notify RICS and fully co-operate with RICS to remedy the issue as soon as reasonably practicable.

**6.3 You agree to co-operate with RICS' reasonable security investigations.**

## **7. Intellectual property rights ownership**

**7.1 You acknowledge that:**

**all Intellectual Property Rights in the Data including, for the avoidance of doubt, the Manipulated Data (but excluding the Derived Data), are and shall remain the property of RICS or its licensors, as the case may be;**

**you shall have no rights in or to the Data other than the right to use them in accordance with the express terms of the Contract; and**

**RICS or its licensors has or have made and will continue to make substantial investment in the obtaining, verification, selection, coordination, development, presentation and supply of the Data.**

**7.2 You hereby grant to RICS a royalty-free, non-exclusive, irrevocable, fully-assignable licence (with a right to sub-licence) to use the Input Data for the following purposes:**

**the development and enhancement of the Data or any other RICS products in existence from time-to-time;**

**incorporation within and/or amalgamation with the Data or any other RICS products in existence from time-to-time in a suitably anonymised format; and**

**the commercial distribution in a suitably anonymised format (whether as part of the Data or otherwise).**

**7.3 Any display of the Services by you shall credit, wherever technically and commercially feasible, RICS, any licensor of RICS or any other source of the Data specified by RICS as the source of the Data.**

**7.4 You acknowledge that the Services contain:**

**Ordnance Survey data © Crown copyright and database right 2015; and**

**Royal Mail data © Royal Mail copyright and database right 2015.**

## **7.5 Data collection**

**BCIS is a reciprocal service. It relies upon data voluntarily submitted by Users. By signing the Contract you agree to be contacted by the BCIS data collection team, you can opt out at any time by contacting [data@bcis.co.uk](mailto:data@bcis.co.uk). Any data supplied to BCIS is treated in accordance with our Data Confidentiality Policy which can be found here <https://www.rics.org/uk/products/data-products/data-collection/>**

## **8. Warranties**

**8.1 RICS warrants that it has the right to license the use of Data as specified in the Contract.**

**8.2 Except as expressly stated in the Contract, all warranties, conditions and terms, whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.**

**8.3 Without limiting the effect of clause 8.2, RICS does not warrant that:**

**the supply of the Data will be free from interruption;**

**the Services will run on the Customer System; or**

**the Data is accurate, complete, reliable, useful, fit for purpose or timely.**

## **9. Limitation of liability**

**9.1 RICS does not limit or exclude liability to you for:**

**fraud or fraudulent misrepresentation;**

**a breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or**

**any matter in respect of which it would be unlawful for RICS to exclude liability.**

**9.2 Subject to clause 9.1, RICS shall not in any circumstances be liable whether in contract, tort (including for negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, for:**

**any loss (whether direct or indirect) of profits, business, business opportunities, revenue, turnover, reputation or goodwill;**

**any loss or corruption (whether direct or indirect) of data or information;**

**loss (whether direct or indirect) of anticipated savings or wasted expenditure (including management time); or**

**any loss or liability (whether direct or indirect) under or in relation to any other contract**

**9.3 Subject to clause 9.1, RICS' total aggregate liability in contract, tort (including negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall in all circumstances be limited to 125% of the total Charges paid by you to RICS during the 12-month period immediately before the date on which the cause of action first arose.**

**9.4 RICS shall not be liable for any delay in delivery of the Services that is caused by an event within the scope of clause 11 or your failure to comply with any instructions that are relevant to the supply of the Services.**

## **10. Term and termination**

**10.1 Your subscription shall commence from when we provide written confirmation that we have received payment from you or, where we have agreed to grant credit terms, from confirmation of your Order by us. Your subscription shall continue, unless terminated earlier in accordance with clause 10.2 or clause 11, for the Subscription Term following which it shall terminate automatically without notice.**

**10.2 Without prejudice to any rights or remedies it may have, RICS may terminate the Contract with immediate effect by giving written notice to you if:**

**you fail to pay any amount due under the Contract on the due date for payment; or**

**you commit any other breach of any material term of the Contract and (if that breach is remediable) fail to remedy that breach within a period of 30 days after being notified in writing to do so.**

**10.3 Any provision of the Contract that is expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.**

**10.4 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.**

**10.5 On any termination of the Contract for any reason or expiry of the Subscription Term, you shall immediately:**

**pay any outstanding amounts owed to RICS under the Contract and ensure that there is no further use of the Services in any of your products or applications; and**

**ensure that all Data and Manipulated Data (excluding any Derived Data) is deleted from the Customer System save to the extent such deletion is prohibited by law.**

**10.6 On termination of the Contract, RICS shall refund any Charges for the relevant Subscription Term paid by you as at the date of termination (less a reasonable sum in respect of your use of the Data to the date of termination), except where RICS has, in accordance with the Contract opted to terminate the Contract due to your breach, in which case you shall not be entitled to any refund.**

## **11. Force majeure**

**RICS shall not be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances RICS shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 4 weeks, you may terminate the Contract by giving 14 days' written notice to RICS.**

## 12. Notice

12.1 Any notice given by you to RICS under or in connection with the Contract shall be in writing and shall be delivered by either:

email;

hand or by pre-paid first-class post or other next working day delivery service

to the addresses detailed below:

Method of Delivery Address

Email [REDACTED]

Post [REDACTED]

[REDACTED]

[REDACTED]

12.2 Any notice given by RICS to you under or in connection with the Contract shall be in writing and shall be delivered by either:

email;

hand or by pre-paid first-class post or other next working day delivery service

to the address set out above.

12.3 Any notice shall be deemed to have been received:

if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;

if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.

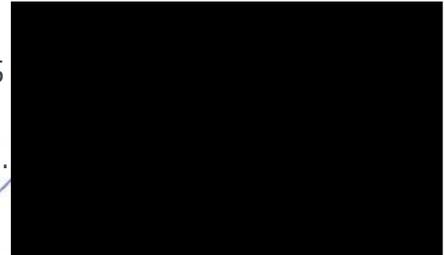
12.4 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

**This Contract (comprising the general terms and conditions and these Special Conditions) has been entered into on the date stated at the beginning of it.**

Signed by [REDACTED], Head of Sales & Marketing- BCIS

For and on behalf of RICS

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Signed by [REDACTED], Chief Valuer]

For and on behalf of Valuation Office Agency



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