



Order Form

Framework agreement reference: **SBS/19/AB/WAB/9411**

Date of order	27 September 2024	Order Number	Supplier Order No. 15777959618 Contract Ref: CQC I&D 118 PO Number: TBC
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FROM

Customer	Care Quality Commission ("Customer")
Customer's Address	Citygate, Gallowgate, Newcastle Upton Tyne, NE1 4PA
Invoice Address	
Contact Ref:	

TO

Supplier	Trustmarque Solutions Limited ("Supplier")
Supplier's Address	Marlborough House Westminster Place, York Business Park, York, United Kingdom, YO26 6RW
Account Manager	

GUARANTEE

Guarantee to be provided	Yes__ /
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<b>1. TERM</b>
<b>(1.1) Commencement Date</b> 1 <sup>st</sup> November 2024
<b>(1.2) Expiry Date</b> The Contract shall expire on the date which is <b>12 Months</b> after the Commencement Date.

<b>2. GOODS AND SERVICES REQUIREMENTS</b>
<b>(2.1) Goods and/or Services</b>  The Supplier shall provide the Customer with the Goods and/or Services set out in Annex A and B.
<div style="text-align: right;"><b>Minimum Order Value    £53,601 Exc. VAT</b></div>
<b>(2.2) Premises</b>  The Goods and/or Services will be provided remotely.
<b>(2.3) Lease/ Licenses</b>  The Supplier shall provide the licences as set out in Annex A. The Customer shall be subject to the terms of the Sub-contractors end user licence set out in Annex C.
<b>(2.4) Standards</b>  N/A
<b>(2.5) Security Requirements</b>  N/A
<b>(2.6) Exit Plan (where required)</b>  N/A
<b>(2.7) Environmental Plan</b>  N/A
<b>3. SUPPLIER SOLUTION</b>
<b>(3.1) Supplier Solution</b>  As set out in Annex A and B.
<b>(3.2) Account structure including Key Personnel</b>  Supplier Client Manager: [REDACTED] Client Director: [REDACTED] Head of Healthcare: [REDACTED]  Customer Customer Success manager: [REDACTED]
<b>(3.3) Sub-contractors to be involved in the provision of the Services and/or Goods</b>  Program Framework Ltd Hoppingwood Farm, Robin Hood Way, London SW20 0AB Company No: 5461232
<b>(3.4) Outline Security Management Plan</b>  N/A

<b>(3.5) Relevant Convictions</b> N/A
<b>(3.6) Implementation Plan</b> N/A

<b>4. PERFORMANCE QUALITY</b>
<b>(4.1) Key Performance Indicators</b> N/A

<b>(4.2) Service Levels and Service Credits</b> N/A
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<b>5. PRICE AND PAYMENT</b>
<b>(5.1) Contract Price payable by the Customer in accordance with the commercial schedule set out in the framework agreement (including applicable discount but excluding VAT), payment profile and method of payment (e.g. Government Procurement Card (GPC) or BACS))</b>  £53,601 by BACS
<b>(5.2) Invoicing and Payment</b>  The Supplier shall issue one invoice in advance. The Customer shall pay the Supplier within thirty (30) days of receipt of a Valid Invoice, submitted in accordance with this paragraph 5.2, the payment profile set out in paragraph 5.1 above and the provisions of the Contract.

**6. SUPPLEMENTAL AND/OR ADDITIONAL CLAUSES****(6.1) Supplemental requirements**

The Parties agree that:

- No Trustmarque personnel employed in delivery of the services shall be brought into contact with any vulnerable persons or individuals receiving health care, and no activities performed in the course of the Services are regulated activities for the purpose of the Safeguarding Vulnerable Groups Act 2006.
- No IPR is being generated.
- Any call-off provisions relating to TUPE are not applicable to this Order Form.
- The provisions of clause 10.1.14 of the Call-Off terms is not applicable to this Order Form.
- For any indemnities that are to be subject to the limitation on liability at Clause 13, it is all claims in aggregate arising under all those indemnities (i.e., taken together) which are subject to the limitation of liability at Clause 13.2, as amended.

For the purposes of this SLA, the Parties agree that Clauses 11,12 and 13 shall be amended as follows:

**11 Intellectual property**

11.1 All Intellectual Property Rights existing prior to the Commencement Date shall vest in their originator absolutely.

11.2 The Customer grants the Supplier for the Term a non-exclusive, worldwide, royalty free licence to use the Customer's Intellectual Property Rights in any pre-existing material that vests in the Customer pursuant to Clause 11.1 to the extent required by the Supplier to provide the products Services and to fulfil the Supplier's other obligations under this Contract.

11.3 Subject to Clauses 11.1 and 11.2 above and 11.4 below, all Intellectual Property Rights and all other rights in the products and/or Service shall be owned by the Supplier or its licensors. The Supplier hereby licences all such rights to the Customer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the products and/or Service as set out in the Contract. If this Contract is terminated or expires, this licence will automatically terminate.

11.4 Where the Supplier has agreed to provide the Customer with third party software as part of the Service, the terms upon which such software is provided are set out in section 2.3 of this Contract.

**12 Indemnity**

12.1 Unamended

12.2 Liability under Clauses 12.1.1, 12.1.3 and 17.13 of this Schedule 2 of these Call-off Terms and Conditions shall be unlimited. Liability under Clauses 12.1.2 and 12.1.4 of this Schedule 2 of these Call-off Terms and Conditions and Clause 2.6 of Schedule 3 of these Call-off Terms and Conditions shall be subject to the limitation of liability set out in Clause 13 of this Schedule 2 of these Call-off Terms and Conditions

**13 Limitation of liability**

13.1 Unamended

13.2 Subject to Clauses 12.2, 13.1 and 13.3 of this Schedule 2 of these Call-off Terms and Conditions, the total liability of each Party to the other under or in connection with this Contract whether arising in contract, tort, negligence, breach of statutory duty or otherwise shall be limited in aggregate to one hundred and twenty five percent (125%) of the total Contract Price paid or payable by the Authority to the Supplier for the Services.

13.3 There shall be no right to claim losses, damages and/or other costs and expenses under or in connection with this Contract whether arising in contract (to include, without limitation, under any relevant indemnity), tort, negligence, breach of statutory duty or otherwise to the extent that any losses, damages and/or other costs and expenses claimed are in respect of loss of production, loss of business opportunity or are in respect of indirect loss of any nature suffered or alleged.

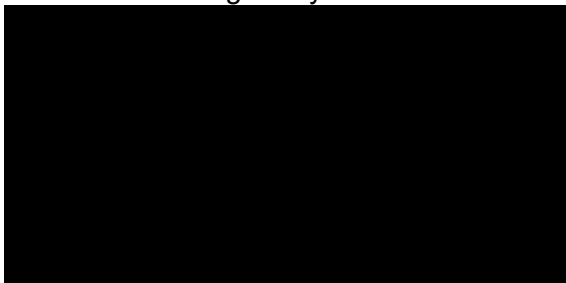
**BY SIGNING AND RETURNING THIS ORDER FORM THE SUPPLIER AGREES** to enter a legally binding contract with the Customer to provide the Goods and/or Services. The Parties hereby acknowledge and agree that they have read the NHS Conditions of Contract for purchase of goods and/or Services and by signing below agree to be bound by the terms of this Contract.

**For and on behalf of the Supplier:**

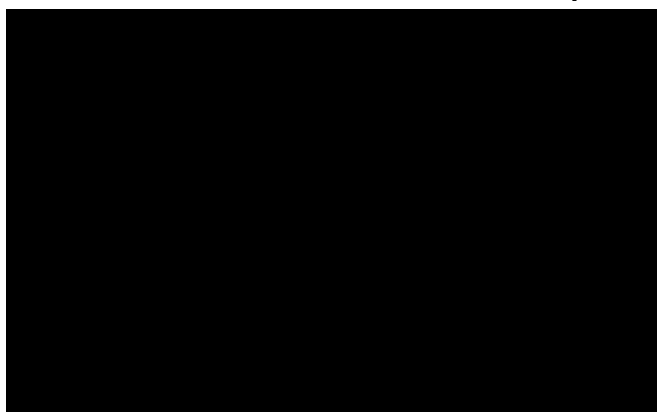
**IN WITNESS** of which this Contract has been duly executed by the parties.

**SIGNED** for and on behalf of **CARE QUALITY COMMISSION**

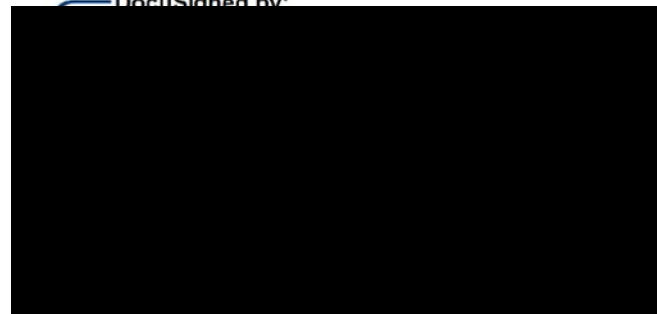
Authorised Signatory:



**SIGNED** for and on behalf of **Trustmarque Solutions**



 DocuSigned by:



Company	Care Quality Commisison	Date:	09/08/2024
Attention	Lee Davies	Expiry Date:	17/09/2024
		Quote Ref:	TM/PF/CQC/0908
This document is issued Commercially in Confidence		Notes	Quote Total: £53,601
All prices exclude VAT and are valid for 30 days, unless otherwise stated			
Should the foreign currency exchange rate fluctuate by more than 2% during this period, this quotation is no longer valid and we reserve the right to re-quote.			
By accepting this quote the Customer agrees that the usage of the above products is subject to the Third Party Terms, which may include any End User Licence provided by the relevant Third Parties. The Customer agrees to be bound by these terms which will take precedence over any other terms in place between the Parties in the event that usage of the above products contravenes the Third Party Terms. All software will be delivered electronically unless otherwise agreed.			

## **ANNEX B – Statement of Work**

# **Care Quality Commission Power Framework Renewal Statement of Work for Small Change Days**

Trustmarque OP ID: 14989615603

Version: 1.0

Date Released: September 2024

Commercial in Confidence

## 1. Introduction

This Statement of Work ("SOW") sets out the Services to be provided by Trustmarque ("Supplier") to Care Quality Commission ("Customer"). The Services provided under this SOW are subject to and governed by Framework Agreement SBS/19/AB/WAB/9411 and SBS NHS Order Form No. 15777959618 (together the "Contract"). Terms not defined herein shall have the meanings given in the Contract. In the event of a conflict and/or inconsistency between the terms and conditions of the Contract and those of this SOW, the terms and conditions of this SOW shall prevail.

The following information is provided to detail the scope and conditions of Services that the Supplier shall perform and provide to Customer (the "Services").

This SOW will subsist for its agreed term notwithstanding earlier termination of the Agreement.

## 2. Definitions

The following defined terms are used throughout this Statement of Work:

Definition	Meaning
Small Change Days	Small change days include cover for minor changes only whereby the Customer can log minor change requests via Program Frameworks service desk. Larger continuous improvement work packages are not included in these days and can be quoted for separately.
Program Framework	The approved subcontractor that will perform the Small Change Days directly to the Customer.

## 3. Scope and Conditions of SOW

### 3.1 Scope of Services

Supplier shall provide the resources set out in the 'Resources' section below. The Supplier, via Program Framework will provide the following:

- a) 5 Small Change Days which shall cover minor changes only.

### 3.2 Delivery Timeline

The Services are scheduled to commence on the Commencement Date, provided that the Contract has been executed by 31<sup>st</sup> October 2024. In the event that the Contract has not been executed by that date, then the Commencement Date of the Small Change Days shall be subject to agreement with the Parties' respective Project Managers, to enable Supplier sufficient time to mobilise resources.

Supplier shall use reasonable endeavours to meet any timetable agreed with the Customer.

### 3.3 Deliverables



There are no formal Deliverables under this Statement of Work.

### **3.4 Hardware and/or Software**

Not used.

### **3.5 Dependencies and Obligations**

Not used.

## **0. Governance**

Project governance is not included in this engagement.

### **4.1 Contacts**

As set out in SBS NHS Order Form to the Contract.

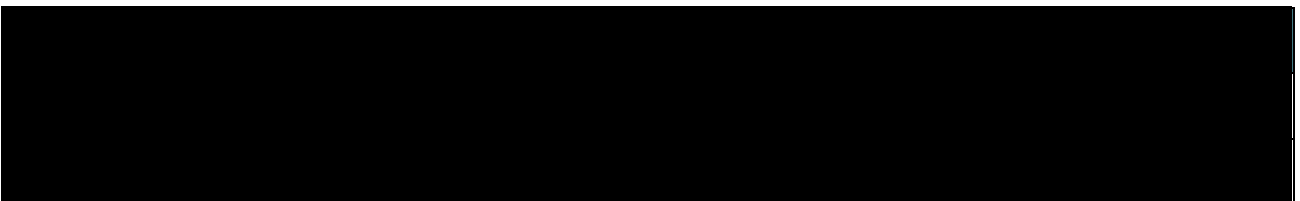
### **4.2 Hours and Location**

The Services will be performed remotely, during normal business hours (Monday through Friday, 09.00 to 17:00), excluding UK public holidays, unless other arrangements have been made in writing between Supplier and Customer. Any work performed by Supplier outside of normal business hours working may be subject to additional fees.

## **1. Pricing and Payment**

### **5.1 Fees**

In consideration for providing the Services, the Customer shall pay the Supplier in advance and on receipt of a purchase order.



Fees quoted herein do not include VAT, which will be charged at the prevailing rate. The Fees exclude any costs associated with expenses, travel, accommodation and subsistence.

Each 'day' shall mean a working day of 7.5 hours, between 09:00 hours and 17:00 hours Mondays to Fridays but excluding UK Bank and Public Holidays ("Working Hours").

Supplier will invoice the total Fee upon execution of this Statement of Work.

The Daily Rates are valid only for 12 months from the Effective Date. For subsequent years, the Daily Rates shall be increased in line with the Retail Price Index.

## 6. Change Control Process

### 6.1 Change Control Process for Small Change Days

Customer and Supplier shall discuss any changes proposed by the other party and such discussion shall result in either:

- a written request for a Change by Customer; or
- a written recommendation for a Change by Supplier; or
- where neither of Customer nor Supplier should wish to submit a request or recommendation, the proposal for the Change will not proceed.

Where a written request for a Change is received from Customer, Supplier shall, unless otherwise agreed submit a Change Request ("CR") in the form set out in Appendix B to Customer within the period agreed between them or where no such period is agreed within ten (10) Business Days from the date of receipt of such request for a Change or inform Customer that Supplier is not able to comply with such written request for a Change.

A written recommendation for a Change by Supplier shall be submitted as a CR direct to Customer at the time of such recommendation.

Each CR shall contain:

- the title of the Change;
- the originator and the date of the request or recommendation for the Change;
- the reason for the Change;
- the full details of the Change including any specifications and user facilities;
- the price of or associated with the Change;
- a timetable for implementation together with any proposals for acceptance of the Change;
- the impact of the Change on other aspects of the Statement of Work Order (and any other Statement of Works that may be affected) in question or the Master Agreement including but not restricted to:
  - the Services or Additional Services;
  - the Fees,
  - the contractual documentation, and
  - staff resources;

the date of expiry of validity of the offer represented by the CR (which shall not be less than thirty (30) days from the date of receipt of the CR by Customer); and  
provision for signature of the CR by Customer and Supplier.

For each CR submitted Customer shall, within the period of validity of the CR:

- allocate a sequential number to the CR;
- evaluate the CR and as appropriate either:
  - request further information; or
  - approve the CR; or

- notify Supplier of the rejection of the CR; and
- where approved, arrange for two copies of the approved CR to be signed for and on behalf of Customer and Supplier. The signing of the CR will signify acceptance of a Change by both Customer and Supplier.

Once signed by Customer and Supplier in accordance with the above the Change shall be immediately effective and Customer and Supplier shall perform their respective obligations on the basis of the agreed amendment.

## **6.2 Change Control Template**

In accordance with Appendix B of this SOW.

## APPENDIX A – SPECIAL TERMS AND CONDITIONS

The terms set out below shall take precedence over the Agreement, in the event of any conflict, for the purpose of this Statement of Work only.

- 1.1 The Supplier may use the Customers name and/or logo for the sole purpose of identifying the Customer as a customer of the Supplier, including content on the Suppliers website.
- 1.2 The Supplier may produce one or more case studies summarising the way in which the Services as described in this SOW have been provided, for internal use and/or to other Customers or potential Customers. Where any such case studies (a) include information beyond what is available in the public domain; or (b) will be used by the Supplier for promotional and publicity purposes, the contents of which will be subject the Customers written approval.
- 1.3 Supplier shall not be responsible for any delay or failure to provide Service to the extent caused by: (1) failure by Customer to perform its responsibilities under this SOW; (2) any incorrect assumptions based on the information provided by Customer; (3) a defect, deficiency or failure with respect to Customer's network, systems, software, data or other equipment; or (4) modifications to Customer's network, systems, or other equipment made by a party other than Supplier or its representatives. In the event that either party becomes aware of the occurrence of one or more of the foregoing events, they shall notify the other party accordingly. Notwithstanding such occurrence, Supplier may, following discussion with Customer regarding the impact of such incident, continue to provide the Service and shall use commercially reasonable efforts to perform the Service under this SOW. Customer shall reimburse Supplier for its reasonable additional costs of providing the Service and out of pocket expenses for such efforts and only to the extent attributable to the items referred to above.
- 1.4 Following the successful completion of this Statement of Work, the Customer may receive a project satisfaction survey from [customer.experience@trustmarque.com](mailto:customer.experience@trustmarque.com). The survey seeks to gain feedback about the Customer's experience with the Supplier to enable us to measure the effectiveness of the Supplier's delivery and drive continuous improvement across the business.
- 1.5 Supplier may use affiliates and subcontractors to perform Services.
- 1.6 From time to time, Supplier may change the location where Services are performed and/or the party performing the Services. Supplier shall remain responsible to Customer for the delivery of Services.
- 1.7 If the Customer does not use the Small Change Days within the Term of the SOW, the Customer shall not be entitled to a refund, unless otherwise agreed.

## APPENDIX B – CHANGE CONTROL NOTE

### Change Control Note

Statement of Work No: [     ]  
 Change Request No: [     ]  
 Trustmarque Project Code: [     ]  
 Customer Project Code/ Reference: [     ]

This Change Request is issued in accordance with and is subject to the [Agreement] dated [date] (the “Agreement”) between Trustmarque Solutions Limited (“Trustmarque”) and Care Quality Commission (the “Customer”) and sets out a variation of the Statement of Work referred to above.

Change Request Title	[CHANGE REQUEST TITLE] (Trustmarque ref: [ ])
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Initiator	[INITIATOR]
Date of request	[DATE OF REQUEST]

Reason for change	[REASON FOR THE CHANGE]
Details of change	[DETAILS OF THE REASON FOR CHANGE] [INCLUDE ANY CHANGE TO SPECIFICATIONS]

Quotation (if applicable)	[AMENDMENTS TO FEES / COST OF CHANGE]
Implementation Plan	[TIMETABLE FOR THE IMPLEMENTATION] [INCLUDE ANY PROPOSALS FOR ACCEPTANCE OF THE CHANGE]
Payment Schedule (if applicable)	[PAYMENT SCHEDULE]

Impact of the Change on other aspects of the Statement of Work	[Should include, but is not limited to:] [THE TERM OF THE CONTRACT]
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	<div>SUPPLIERS PERSONNEL]</div> <div>THE PAYMENT PROFILE]</div> <div>THE DOCUMENTATION TO BE PROVIDED]</div> <div>THE TRAINING TO BE PROVIDED]</div> <div>WORKING ARRANGEMENTS]</div> <div>OTHER CONTRACTUAL ISSUES]</div>
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Expiry date of the validity of the Change Request	[DAY/MONTH/YEAR]
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This Change Request sets out a variation or variations to the Statement of Work referenced above.

## APPENDIX C – Program Framework Eula

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You acknowledge that we may update the terms and conditions of this License from time to time and that it is your responsibility to check any updates. Any changes made to this License shall be set out and annotated above in the History table and shall be incorporated into the terms and conditions of this License.

You should print a copy of this Licence for future reference.

AGREED TERMS

1. Provision of the Services
  - 1.1 Licensor will provide the Software materially in accordance with this License and the Documentation.
2. Grant and scope of License
  - 2.1 Subject to Licensee's continuous compliance with this License and payment of the applicable License Fee, and except as otherwise set out in this License, Licensor grants Licensee a nonexclusive, non-transferable and limited license to install and use the Software and in the Territory during the License Term (unless earlier terminated in accordance with the terms of this License).
  - 2.2 Licensor reserves the right at any time to make any improvement, substitution or modification in the design, manufacture or configuration of the Software provided that any such improvement, substitution or modification shall not result in any material change in the functionality or performance of the Software.
  - 2.3 The Licensee may, subject to prior written consent, perform any of its obligations or exercise any of its rights under this License by itself or through any affiliate provided that:
    - (a) any act or omission of any such person shall be deemed to be the act or omission of the Licensee;
    - (b) any such performance and/or exercise shall be solely for the business purposes of the Licensee and its affiliates;
    - (c) any claim from an affiliate shall be brought through the Licensee and the exclusions of and caps on liability detailed in this License shall apply in aggregate to all claims brought by the Licensee and its affiliates.
  - 2.4 Where third party suppliers are required to interface with or otherwise affect (or are affected by) the Software, Licensor shall at the Licensee's request and expense co-operate with such suppliers and shall provide such information as such suppliers shall reasonably require (on such notice as is reasonable in the circumstances and subject to such reasonable conditions as to confidentiality, security and non-interference as Licensor may propose).
  - 2.5 The Licensee shall:
    - (a) provide to Licensor the details of the Licensee authorised contact. In the event of any change in the Licensee contact, the Licensee will provide written details of a replacement as soon as reasonably practicable of a person with equivalent qualifications and experience;
    - (b) where appropriate, make available to the Licensor's directors, employees, agents, consultants and sub-contractors such office and reasonable administrative support as may be necessary for the provision of the Licenses and Support (if applicable);
    - (c) take all necessary steps to ensure that its employees or subcontractors abide by the terms of this License;



- (d) ensure its employees, agents, consultants and sub-contractors co-operate fully with Licensor and make available at no expense to Licensor such suitably qualified and experienced personnel to provide information to Licensor for the purposes of providing the Licences and any relevant Support at no cost to the Licensor;
- (e) comply with the Documentation;
- (f) refrain from arbitrarily changing settings or configuration sets in the Software provided to the Licensee under this License;
- (g) inform Licensor as soon as possible about any change of the location.

2.6 The Licensee shall be responsible for ensuring that all its existing equipment used to access the Software is safe and secure. Licensor accepts no liability (other than for wilful damage) for loss of data, interruption of supply of electricity or telecommunications or interruption of business occasioned as a result of the supply of the Software. It is the sole responsibility of the Licensee to take all necessary precautions to protect its data and ensure a regular backup arrangement is implemented prior to, during and after the Licensor's provision of the Software.

2.7 Licensor shall not be liable for losses (for avoidance of doubt such losses shall include special, direct, indirect or consequential losses) sustained or incurred by the Licensee arising directly or indirectly from the Licensee's failure or delay to perform any of its obligations as set out in this clause 2.

### 3. Restrictions

3.1 Except as expressly set out in this License or as permitted by any local law, you undertake:

- (a) not to copy the Software or Documentation except as reasonably necessary for back-up, archival or disaster recovery purposes, and further provided that all such copies shall bear the original and unmodified copyright, patent and other intellectual property markings that appear on or in the Software;
- (b) unless otherwise set out in this License, not rent, lease, sell, sublicense, assign or transfer your rights in the Software, or authorise any portion of the Software to be copied onto another individual or legal entity's computer
- (c) not to disassemble, decompile, reverse-engineer or create derivative works based on the whole or any part of the Software nor attempt to do any such thing except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the Software with another software program, and provided that the information obtained by you during such activities:
  - (i) is used only for the purpose of achieving inter-operability of the Software with another software program;
  - (ii) is not unnecessarily disclosed or communicated without our prior written consent to any third party; and
  - (iii) is not used to create any software which is substantially similar to the Software.

- (d) not to modify, port, adapt, or translate the Software;
- (e) to keep all copies of the Software secure and to maintain accurate and up-to-date records of the number and locations of all copies of the Software;
- (f) to include our copyright notice on all entire and partial copies you make of the Software on any medium;
- (g) not to provide, or otherwise make available, the Software in any form, in whole or in part (including, but not limited to, program listings, object and source program listings, object code and source code) to any person without prior written consent from us;
- (h) to notify your employees and agents who may have access to the Software of the restrictions contained in this License and to ensure their compliance with these restrictions; and
- (i) to comply with all applicable technology control or export laws and regulations.

3.2 You may:

- (a) download, install and use the Software on the System for your internal business purposes only;
- (b) provided you comply with the provisions in Clause 3.1 make up to 1 copy of the Software for back-up purposes only;
- (c) receive and use any free Updates of the Software incorporating "patches" and corrections of errors as may be provided by us from time to time; and
- (d) use any Documents in support of the use permitted under Clause 3.1 (a) and make up to 1 copy of the Documents as are reasonably necessary for its lawful use.

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- 4.3 You acknowledge that you have no right to have access to the Software in source code form.
- 4.4 Trademarks shall be used in accordance with accepted trademark practice, including identification of trademark owners' names. Trademarks may only be used to identify printed output produced by the Software, and such use of any trademark does not give you any right of ownership in that trademark.

- 4.5 The Licensor shall defend and indemnify the Licensee against all damages, costs, liabilities, expenses and settlement amounts finally awarded against the Licensee in connection with any claim or action by any third party alleging that the Intellectual Property provided under the Agreement, with no input or direction or instruction from the Licensee, directly infringes any Intellectual Property Rights registered in the country in which the Licensor is providing Services (IPR Claim). The maximum aggregated liability for such indemnification outlined in this clause 4 shall be not exceed one million pounds sterling (£1,000,000) and shall count towards the overall cap as set out in clause 8.2.
- 4.6 If an IPR Claim is brought or in the reasonable opinion of the Licensor is likely to be made or brought, the Licensor may at its own expense ensure that the Licensee is still able to use the License by either:
- (a) modifying any and all of the provisions of the License without reducing the performance and functionality for any or all of the provision of the License, so as to avoid the infringement or the alleged infringement, provided that the terms herein shall apply mutatis mutandis to such modified or substituted services and such modified or substituted services shall be acceptable to the Licensee, such acceptance not to be unreasonably withheld; or
  - (b) procuring a licence or permission to use the License on terms which are acceptable to the Licensee, such acceptance not to be unreasonably withheld.
- 4.7 The Licensee shall promptly notify the Licensor if any IPR Claim or demand is made or action brought against the Licensee for infringement or alleged infringement of any third party right which may affect the provision of License.
- 4.8 Except to the extent that the Licensor should reasonably have known or advised the Licensee the foregoing provisions of clause 4.6, the Licensor shall have no obligation or liability for any IPR Claim to the extent such IPR Claim arises from:
- (a) any use by or on behalf of the Licensee of the combination with any item not supplied or recommended by the Licensor where such use of the License directly gives rise to the claim, demand or action; or
  - (b) any modification carried out on behalf of the Licensee to any item supplied by the Licensor if such modification is not authorised by the Licensor in writing where such modification directly gives rise to a claim, demands or action.
- 4.9 The Licensee shall fully pay and indemnify the Supplier and hold it harmless on demand, from and against all actions, claims, liabilities, demands, proceedings, costs suffered or incurred by Supplier, arising by reason of claims that the Licensee or any of its end users modify, alter, replace combine with any other data, code, documents or other software, which alters the Software and such alterations infringe the Intellectual Property Rights of a third party. This indemnity applies whether or not legal proceedings are instituted and, if such proceedings are instituted, irrespective of the means, manner or nature of any settlement, compromise or determination. This indemnity shall survive the expiration or termination of this License.

- 4.10 This clause 4 sets out the entire liability of the Licensor with respect IPR Claims by the Documentation, Software or any other materials supplied by the Licensor (or its Resellers), or use thereof, and the Licensor shall have no additional liability with respect to any alleged or proven infringement.
- 4.11 The Licensor shall have no liability to indemnify or hold the Licensee harmless for any payment made by the Licensee in settlement or compromise of any IPR Claim against the Licensee.
- 4.12 The Licensor is solely responsible for any content, application or software that the Licensor or its end-users load into or create within any service or offering. The Licensee agrees, at its sole cost and expense, to indemnify, defend and hold the Licensor (and its Resellers) harmless from and against any claims, losses or settlement arrangements arising out of or in connection with: (i) any such content, application or software, or any loss or corruption thereof; (ii) any access to the IA Plus Suite by a non-authorised personnel; or (iii) any use of any offering in combination with other offerings or products in violation of these provisions.

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- 5.1 Confidential Information means information designated by the party disclosing such information (Disclosing Party) as "confidential" or "proprietary" or that a reasonable person would understand to be confidential given the nature of the information and the circumstances of the disclosure. Licensee's Confidential Information includes Licensee data. Licensor's Confidential Information includes any information related to the structure, organization and code of the Software (including the License Key) and its performance, functionality, and reliability. Confidential Information does not include information that: (i) is or becomes generally known to the public through no fault of the party that receives such information from the Disclosing Party (Receiving Party); (ii) is in the Receiving Party's possession prior to receipt from the Disclosing Party; (iii) is acquired by the Receiving Party from a third-party without breach of any confidentiality obligation to Disclosing Party; or (iv) is independently developed by Receiving Party without reference to the Disclosing Party's Confidential Information.
- 5.2 Confidential Information is and will remain the exclusive property of the Disclosing Party. In addition to any other obligations required of it under Clause 5 herein, the Receiving Party will: (i) use Disclosing Party's Confidential Information solely for the performance of the activities contemplated by this License; (ii) disclose such information only to its employees, agents, professional advisors and contractors who are bound by obligations of confidentiality at least as strict as those contained in this Clause 5; (iii) protect Disclosing Party's Confidential Information against unauthorised use or disclosure using the same degree of care it uses for its own Confidential Information, which in no event will be less than reasonable care; and (iv) upon written request, return or destroy all copies of the Disclosing Party's Confidential Information that are in its possession or control.

## 6. Warranty

- 6.1 We warrant that:

- (a) the Software will, when properly used and on a System for which it was designed, perform substantially in accordance with the functions described in the Documents; and
  - (b) that the Documents correctly describe the operation of the Software in all material respects.
- 6.2 You must notify us in writing of any defect or fault in the Software as a result of which it fails to perform substantially in accordance with the Documents, we will, at our sole option, either repair or replace the Software, provided that you make available all the information that may be necessary to help us to remedy the defect or fault, including sufficient information to enable us to recreate the defect or fault.
- 6.3 Licensor, its affiliates, and its Reseller's entire liability and your exclusive remedy shall be, at Licensor's option, either
  - (a) a refund of the License Fee, if any, or
  - (b) repair or replacement of the Software.
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- 6.5 Licensee acknowledges that the Software has not been developed to meet Licensee's individual requirements, and that it is therefore your responsibility to ensure that the facilities and functions of the Software as described in the Documentation meet your requirements.
- 6.6 Licensor does not warrant that the operation of the Software will be uninterrupted or error free.
- 6.7 The Licensor shall use commercially reasonable endeavours to ensure that no virus, time bomb, trap door or other equipment or software disabling device is introduced by it into the Software and will use reasonable endeavours to meet any performance dates for the Software (if dates are specified in the Order Form), but any such dates shall be estimates only and time shall not be of the essence of the performance of the Software.
- 6.8 The foregoing limited warranty and remedies state the sole and exclusive remedies for Licensor, its affiliates, or Resellers' breach of warranty. Licensor, its affiliates, or Resellers do not and cannot warrant the performance or results you may obtain by using the Software. Except for the foregoing limited warranties under this License, and for any warranty, condition, representation or term to the extent which the same cannot or may not be excluded or limited by law applicable to you in your jurisdiction, Licensor, its affiliates or Resellers make no warranties, conditions, representations or terms, express or implied, whether by statute, common law, custom, usage or otherwise as to any other matters. To the maximum extent permitted by applicable law,

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7. Termination

- 7.1 Either party and the Reseller may terminate this License upon 90 days written notice to the other party such notice to expire at the end of the First Year or a Renewal Term, as applicable unless otherwise agreed by the Licensor.

- 7.2 This License will be terminated immediately:

- (a) By Licensor by written notice to you if you commit a breach of this License which you fail to remedy (if remediable) within twenty (20) days after the service of written notice requiring you to do so and immediately if the breach becomes irremediable;
- (b) By Licensor if you are not able to provide proof of payment to Licensor, its affiliates, or Resellers for the Software (upon request);
- (c) By Licensor or its Reseller if you fail to pay any portion of the applicable License Fee and you fail to cure that payment breach within thirty (30) days of written notice;
- (d) By either party if the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business; or
- (e) By either party if the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

- 7.3 If the Licensor exercises its rights under clause 7.2 then without prejudice to any other right or remedy available to the Licensor, the Licensor shall be entitled to cancel or suspend the supply of the Licences without any liability.

- 7.4 Upon termination for any reason:

- (a) all rights granted to you under this License shall cease;
- (b) you must cease all activities authorised by this License;

- (c) you must immediately delete or remove the Software and all computer equipment in your possession and immediately destroy or return to us (at our option) all copies of the Software then in your possession, custody or control and, in the case of destruction, certify to us that you have done so;
  - (d) pay for all remaining amounts owing to the Licensor including any applicable interest and in respect of the Licenses supplied but for which no invoices has yet been submitted, the Licensor shall submit an invoice, which shall be payable by the Licensee immediately on receipt.
  - (e) comply with any other reasonable request from us.
- 7.5 Termination under this License shall not affect any of the parties rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the License that existed at or before the date of termination.
- 7.6 The terms and conditions set forth in Clauses 3, 4, 5, 7.5, 8, 12 and 14 shall survive termination as applicable.
- 8. Limitation of Liability
- 8.1 We shall not in any circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Licence for:
  - (a) loss of profits, sales, business, or revenue;
  - (b) business interruption;
  - (c) loss of anticipated savings;
  - (d) loss or corruption of data or information;
  - (e) loss of business opportunity, goodwill or reputation;
  - (f) any special, indirect or consequential loss, damage, charges or expenses; or
  - (g) loss or damage suffered by the Licensee as a result of any action brought by a third party (save for any action brought by a third party that are covered by the indemnity in clause 4.5) even if such loss was reasonably foreseeable or the Licensor had been advised of the possibility of the Licensee incurring the same.
- 8.2 Other than the losses set out in Clause 8.1 (for which we are not liable), our maximum aggregate liability under or in connection with this Licence whether in contract, tort (including negligence) or otherwise, shall in all circumstances be limited to a sum equal to 100% of the Licence Fee paid. This maximum cap does not apply to Clause 8.3.
- 8.3 Nothing in this Licence shall limit or exclude our liability for:
  - (a) death or personal injury resulting from our negligence;
  - (b) fraud or fraudulent misrepresentation;



(c) any other liability that cannot be excluded or limited by English law.

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9.4 Licensee shall pay to Licensor, its affiliates, or its Reseller as applicable, the License Fee and other charges and expenses without right of deduction or set-off as set out in the quote and/or the Order Form; where no charge has been quoted (or a quoted price is no longer valid) the charges listed in the Licensor's published price list current at the date of acceptance of the order shall be payable. The License Fee shall be payable in the currency shown on the invoice and shall be payable on the date set out in the Order Form unless such date is silent, in which case, 30 days from the invoice date prior to the Software being provided to you, unless otherwise negotiated with Licensor, its affiliates, or its Reseller as applicable. In the event the Licensee pays by direct debit, the details of such direct debit payments shall be set out in the Order Form.

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- (b) any factor beyond the control of the Licensor (including foreign exchange fluctuations, increases in taxes, levies, duties, withholding taxes, and increases in labour, materials and other manufacturing costs); or



- (c) any request by the Licensee to change the delivery/ performance date(s), quantities or types of Software ordered or the Order Form.

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- 9.7 All payments by the Licensee hereunder shall be in United Kingdom pound sterling unless otherwise agreed or set out in the Order Form and shall be paid to the Licensor's bank account as advised by the Licensor to the Licensee in writing.
- 9.8 All amounts stated are gross amounts but exclusive of VAT or other sales tax which shall be paid by the Licensee, if applicable, at the then prevailing rate subject to receipt of a valid VAT invoice or other sales tax invoice.
- 9.9 Should the Licensee be required by any law or regulation to make any deduction on account of tax including but not limited to withholding tax or otherwise on any sum payable under the License, the Licence Fees payable shall be increased by the amount of such tax to ensure that the Licensor receives a sum equal to the amount to be paid under the applicable Order Form.
- 9.10 Without prejudice to any other remedy that the Licensor may have, if payment of the License Fees or any part thereof is overdue then unless the Licensee has notified the Licensor in writing that such payment is in dispute within 10 days of the receipt of the corresponding invoice the Supplier may, without prejudice to any other rights or remedies, charge the Licensee interest on the overdue amount at the rate of 4% per annum above National Westminster Bank Plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Licensee shall pay the interest together with the overdue amount.
- 9.11 The Licensor reserves the right, on giving the Licensee 30 days' notice, to increase the License Fees on an annual basis with effect from each Renewal Term. If the Licensee does not agree with this increase, then they may terminate this License upon 30 days written notice and before such price increase takes effect. If the Licensor does not receive written notice within thirty (30) days, the Licensee is deemed to have agreed to the amendment to the License Fees.
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- 10.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 10 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this Error! Bookmark not defined.Error! Reference source not found.0, Applicable Laws means (for so long as and to the extent that they apply to

the Provider) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and Domestic UK Law means the UK Data Protection Legislation and any other law that applies in the UK.

- 10.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Licenser is the processor and the Licensee is the controller. The Licensee shall advise the Licenser of the scope, nature and purpose of processing by the Licenser, the duration of the processing and the types of personal data and categories of data subject.
- 10.3 If, (1) the Licensee is based outside of the EU/EEA; or (2) as a result of the United Kingdom ceasing to be a member state of the European Union, a transfer of Personal Data by the Licensee to the Licenser is a transfer of Personal Data under Article 44 of the GDPR and the transfer is not permitted under Article 45 of the GDPR, then the standard contractual clauses for controllers and processors as approved by the European Union (Model Clauses) will become effective.
- 10.4 Without prejudice to the generality of clause 10.2, the Licenser shall, in relation to any personal data processed in connection with the performance by the Licensee of its obligations under this License:
- (a) process that Personal Data only on the written instructions of the Licensee unless the Licenser is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Licenser to process Personal Data (Applicable Laws). Where the Licenser is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Licenser shall promptly notify the Licensee of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Licenser from so notifying the Licensee;
  - (b) ensure that it has in place appropriate technical and organisational measures, , to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
  - (c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
  - (d) not transfer any personal data outside of the European Economic Area unless the following conditions are fulfilled (and the Licensee hereby consents to transfers on this basis):
    - (i) the Licensee or the Licenser has provided appropriate safeguards in relation to the transfer;
    - (ii) the data subject has enforceable rights and effective legal remedies;

- (iii) the Licenser complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
- (iv) the Licenser complies with reasonable instructions notified to it in advance by the Licensee with respect to the processing of the personal data;
- (e) assist the Licensee, at the Licensee's cost in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f) notify the Licensee without undue delay on becoming aware of a personal data breach;
- (g) at the written direction of the Licensee, delete or return personal data and copies thereof to the Licensee on termination of the License unless required by Applicable Law to store the personal data; and
- (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 10 and allow for audits by the Licensee or the Licensee's designated auditor and immediately inform the Licensee if, in the opinion of the Licenser, an instruction infringes the Data Protection Legislation.

10.5 The Licensee consents to the Licenser appointing third-party processor of Personal Data under this agreement. The Licenser confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause 10 and in either case which the Licenser confirms that it will reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Licensee and the Licenser, the Licenser shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 10.

## 11. Support and Maintenance

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- 13.1 Licensee must maintain true and records related to this during the License Term and three (3) years thereafter (Audit Period). If an audit, litigation, or other action involving such records is initiated before the end of the Audit Period, Licensee must retain the records until all issues are resolved.
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#### 14. General Terms

- 14.1 We may transfer our rights and obligations under these terms to another organisation. You may only transfer your rights or your obligations under this License to another person if we agree in writing.
- 14.2 This License does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this License.
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- 14.5 This License constitutes the entire understanding between Licensor and Licensee relating to its subject-matter and supersede all oral or written proposals, and all communications between the parties relating to its subject-matter. Licensor reserves the right to amend any terms of this License at any time.
- 14.6 Neither party will be liable for any delay in performance or failure to perform its obligations under this License due to any cause or event outside its reasonable control including, acts of God, epidemics or pandemics, civil or military authority, acts of war, accidents, third-party computer or communications failures, natural disasters or catastrophes, strikes or other work stoppages or any other cause beyond the reasonable control of the affected party.
- 14.7 This License contains the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior written and oral understandings of the parties with respect to the subject matter hereof. Any notice or other communication given under this License shall be in writing and shall have been properly given by either of us to the other if sent by certified or registered mail, return receipt requested, or by overnight courier to the address shown on Licensor's website for Licensor and the address shown in Licensor's records for you, or such other address as the parties may designate by notice given in the manner set forth above.
- 14.8 This License will bind and inure to the benefit of the parties and their respective heirs, personal and legal representatives, affiliates, successors and permitted assigns. The failure of either of party at any time to require performance of any provision hereof shall in no manner affect such

party's right at a later time to enforce the same or any other term of this License. This License may be amended only by a document in writing signed by both parties. In the event of a breach or threatened breach of this License by either party, the other shall have all applicable equitable as well as legal remedies.

- 14.9 Each party is duly authorised and empowered to agree to this License. If, for any reason, any provision of this License is held invalid or otherwise unenforceable, such invalidity or unenforceability shall not affect the remainder of this License, and this License shall continue in full force and effect to the fullest extent allowed by law. The parties knowingly and expressly consent to the foregoing terms and conditions.
- 14.10 This Licence, its subject matter and its formation (and any non-contractual disputes or claims) are governed by English law. We both irrevocably agree to the exclusive jurisdiction of the courts of England and Wales.

## Definitions and Interpretation

In this License, the following expressions shall, except where the context otherwise requires, have the following respective meanings:

Business Day	means a day, other than a Saturday or Sunday, on which banks are generally open for business in London.
Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures	as defined in the Data Protection Legislation.

Data Protection Legislation	the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.
First Year	means 12 months from the date set out in the relevant Order Form for the Licence and the from the date of the start of the Support (if purchased) as set out in the Order Form.
Intellectual Property Rights	means any and all patents, rights to inventions, copyright and related rights, moral rights, trade-marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and Licensor's ownership rights extend to any images, photographs, animations, videos, audio, music, text and "applets" incorporated into the Software, all accompanying printed materials and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
License Fee	means the fee for the Software as more fully set out in the Order Form.

License Key	means license keys, codes or files provided by Licensor which allow the Licensee to use the Software/ Licensed Program subject to the terms and conditions of this Agreement.
License Term	means the First Year which shall automatically renew after the First Year for a further 12 months and every 12 months thereafter (each a "Renewal Term") unless otherwise terminated in accordance with this License.
Order Form	means the order form or set up form which sets out the number of licenses, the License Fee, the commencement date of the use of the Software as well as any other details necessary.
Reseller	means an authorised reseller of the Licensor.
Support	means the support and maintenance offered by the Licensor as set out in the Order Form.
Territory	Worldwide.
Trademarks	means those registered trademarks of Licensor.



UK Data Protection Legislation	all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.
Updates	means all updates, upgrades, bug fixes, error corrections, enhancements and other modifications to the Software and backup copies thereof.