

CLARITY CORE Hosted Subscription Terms and Conditions – ra Information Systems

These terms and conditions by and between **ra** Information Systems (RA-IS), a limited company (Company Registration no 2254852) having its registered office at **ra** House, 9-10 Beresford Way, Chesterfield, S41 9FG and the Customer sets forth the terms and conditions upon which RA-IS will provide management software for the Customer.

In consideration of the mutual undertakings, obligations, and responsibilities set forth herein, the parties hereto agree that the following terms apply to and are incorporated in to the Contract between the parties and that such terms prevail over any inconsistent terms or conditions contained in, or referred to in, the Customer's order, Order Confirmation, or implied by law, trade custom, practice or course of dealing:

1. Definitions. In these Conditions and any documents referred to herein the following expressions have the meanings stated, unless the context otherwise requires:

- 1.1. Conditions:** means these conditions and any document referred to herein;
- 1.2. Content.** means the audio and visual information, documents, software, products and services contained or made available to Customer in the course of using the Service.
- 1.3.** Contract means the Customer's order, any order form and RA-IS acceptance of it under clause 2 including the Order Confirmation encompassing the Conditions
- 1.4. Customer.** means the person firm or company who purchases the Services from RA-IS.
- 1.5. Customer Data.** means any data, information or material provided or submitted by the Customer to RA-IS in the course of utilising the Service;
- 1.6. Commencement Date.** means the Commencement Date as specified on the Order Form attached hereto;
- 1.7. Initial Term.** means a twelve month period from the Commencement Date.
- 1.8. Intellectual Property Rights.** means patents, rights to inventions, copyright and related rights, trade marks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography 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.
- 1.9. Licence Administrator(s).** means those Users designated by the Customer who are authorised to purchase licences.
- 1.10. Licence Term(s).** means the period following the Initial Term, during which a specified number of Users are licensed to use the Service, including any renewal terms.
- 1.11. Order Confirmation.** means the order confirmation for the Services attached hereto and provided to the Customer following receipt of an order, and any subsequent order confirmations, from time to time agreed upon between the parties and made a part of the Contract
- 1.12. ra Information Systems Technology.** means all of **ra** Information Systems' proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to the Customer by RA-IS in providing the Service.
- 1.13. Service).** means the CLARITY CORE Online service operated, and maintained by RA-IS, accessible via <https://cloud.clarity-core.com> or other designated web site or IP address, to which Customer is being granted access under the Contract, including the **ra** Information Systems Technology and the Content;
- 1.14. System Administrator(s).** means those Users designated by the Customer who are authorised to create User accounts and otherwise administer the Customer's use of the Service.
- 1.15. Use Guidelines.** means the user conduct policies for use of the Service as set out by RA-IS from time to time.
- 1.16. Users.** means the Customer's employees, representatives, consultants, contractors or agents who are authorised to use the Service and have been supplied user identifications and passwords by the Customer (or by RA-IS at the Customer's request).

2. Effect of the Order

The Customer's purchase order constitutes an offer by the Customer to purchase the Services specified in it on these Conditions; accordingly, the execution and return of the acknowledgement copy of the purchase order form by RA-IS, the return of an Order Confirmation by RA-IS, or RA-IS's commencement or execution of work pursuant to the purchase order, shall establish a contract for the supply and purchase of those Services on these Conditions. The Customer's standard terms and conditions (if any) attached to, enclosed with, or referred to in, the purchase order shall not govern the Contract.

3. Services & Responsibilities

3.1 Licences. RA INFORMATION SYSTEMS grants the Customer and its Users a non-exclusive, non-transferable licence to use the Services subject to these Conditions. Subject to these Conditions, the Customer grants to RA-IS the right to use, copy, store, transmit and display Customer Data solely to the extent necessary to provide the Services as requested by the Customer.

3.2. Responsibilities of RA-IS. RA-IS will use reasonable endeavours to: (i) maintain the security and confidentiality of the Customer Data; (ii) make the Service available twenty-four hours a day, seven days a week, except for planned maintenance periods. The reliability of the platform will allow for 99.95% uptime, measured annually, excluding any downtime for planned maintenance. Failure to meet this target will attract service credits equal to the pro-rata subscription charge for the number of working hours affected. Where service credits apply these will be off-set against the next invoice due. RA-IS reserves the right to perform maintenance of the Service as needed and, if reasonably practicable, will provide reasonable notice to the Customer of any unavailability during normal business hours. RA-IS will not disclose any information regarding the Customer or its user accounts, including any Customer Data, without the Customer's prior written consent, except in accordance with these Conditions or as may be required by law.

3.3 RA-IS will provide the Services in a manner consistent with general industry standards reasonably applicable to the provision thereof and that the Service will perform substantially in accordance with the RA-IS help documentation under normal use and circumstances.

3.4. Responsibilities of Customer.

3.4.1 The Customer shall:

- (i) co-operate with RA-IS in all matters relating to the Services;
- (ii) provide in a timely manner such information as RA-IS may request, and ensure that such information is accurate in all material respects; and
- (iii) be responsible at its own cost for preparing the relevant premises and equipment for the supply of the Services.

3.4.2 If RA-IS's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer or the Customer's agents, sub-contractors or employees, the Customer shall be liable to pay to RA-IS on demand all reasonable costs, charges or losses sustained or incurred by it (including, without limitation, any direct or indirect consequential losses, loss of profit and loss of reputation, loss or damage to property, injury to or death of any person and loss of opportunity to deploy resources elsewhere), subject to RA-IS confirming such costs, charges and losses to the Customer in writing.

3.4.3 The Customer is responsible for any and all activities that occur under the Customer's User accounts. The Customer shall: (i) notify RA-IS immediately of any unauthorised use of any password or account or any other known or suspected breach of security; (ii) report to RA-IS immediately and use its best endeavours to stop immediately any copying or distribution of Content that is known or suspected by the Customer or its Users; (iii) ensure that use of the Services by its Users shall at all times conform to the Use Guidelines; and (iv) not impersonate another RA-IS user or provide false identity information to gain access to or use the Services.

3.4.4 The Customer shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise make available to any third party the Service or the Content, (ii) modify or make derivative works based upon the RA Information Systems Technology or the Content; (iii) commercially exploit the Service or the Content in any way, or (iv) create Internet links to the Service or frame or mirror any Content contained in, or accessible from, the Service on any other server, wireless or Internet-based device. RA-IS shall not use the Customer Data for any purpose other than to provide the Service to the Customer.

4. Fees.

4.1. Payments. The Customer shall pay RA-IS all charges and fees in accordance with the Order Form. RA-IS charges and collects annually in advance for use of the Service. RA-IS will issue an invoice to the Customer upon commencement of the Initial Term or one month before the start of any subsequent Licence Term. Invoices must be paid within twenty eight (28) days of the invoice date in full and in cleared funds. All fees quoted and payments made under the Contract and in connection with these Conditions shall be in pounds sterling. The Customer's account will be considered overdue if payment in full is not received within twenty eight (28) days of the invoice date and RA-IS reserve the right to suspend all Services until payment is made in full. Time for payment shall be of the essence of the Contract

4.2 User Fees. Licence fees are non-refundable and are based on the number of Users contracted for, whether or not such licences are actively used. The number of User licences specified on an Order Confirmation may be increased, but cannot be reduced, during the Initial Term of twelve months or during any other Licence Term. Additional Licences may be requested by submitting a request but the granting of such additional licences shall be at the sole discretion of RA-IS. Licences added in the middle of the Initial Term or a Licence Term will be charged from the date of the additional order for the remainder of the Initial Term or Licence Term, on a pro rata basis by month (i.e., licences added in the middle of a calendar month will be charged for the entire month), as well as any renewal term. Unless otherwise specified in the relevant order or Order Confirmation, licences added during the Initial Term or subsequent Licence Term will be subject to the following: (i) added licences will be coterminous with the Initial Term or the then current Licence Term; and (ii) the licence fee for the added licences will be the then current, generally applicable licence fee.

4.2.(i) Additional Buildings: must have a minimum of one Licence (user or building) per Additional Building.

4.3. Late or Non-Payments. Without prejudice to any other right or remedy that RA-IS may have, any payment not received by RA-IS from the Customer by its due date shall accrue interest on a daily basis at a rate of four percent above the base rate of the Royal Bank of Scotland plc from time to time in force and shall be compounded quarterly until payment is made, whether before or after any judgment. RA-IS may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

4.4. Suspension of Service. In the event the Customer's account becomes overdue, in addition to any of its other rights or remedies, RA-IS, reserves the right to suspend the Service provided to the Customer. Should the Service be suspended in accordance with this clause 4.4 a reconnection fee of £500.00 will be payable if the Customer requires reconnection to the Service. For the avoidance of doubt, no reconnection will take

place until the Customer's account is up to date and all monies owed by the Customer to RA-IS have been paid.

4.5. VAT. Save in so far as otherwise expressly provided all amounts stated in these Conditions are expressed exclusive of value added tax and any value added tax arising in respect of any supply made hereunder shall on the issue of a valid tax invoice in respect of the same be paid to the party making such supply by the party to whom it is made in addition to any other consideration payable therefore.

4.6 All payments payable to RA-IS under the Contract shall become due immediately on termination, despite any other provision and RA-IS may, without prejudice to any other rights it may have, set off any liability of the Customer to RA-IS against any liability of RA-IS to the Customer.

5. Ownership.

5.1. RA INFORMATION SYSTEMS. RA-IS (and its licensors, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights, in and to the **ra** Information Systems Technology, the Content and the Services and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by the Customer or any other party relating to the Service (but excluding Customer Data). The Contract and these Conditions do not convey any rights of ownership in or related to the Service, **ra** Information Systems Technology or Intellectual Property Rights owned by RA-IS to the Customer.

5.2. Customer Data. All the Customer data submitted by the Customer to RA-IS in connection with the Services, whether posted by the Customer or by third parties, shall remain the sole property of the Customer or such third parties, as applicable.

5.3. Software Restrictions. RA-IS operates and manages its own and third-party software in order to provide the Services. To the extent that access to any software is provided to the Customer by RA-IS, the Customer agrees that it will use such software solely for the Customer's own internal processing operations, and that the Customer will not directly, indirectly, alone, or with another party copy, disassemble, reverse engineer, or decompile, modify, create derivative works based upon, or translate the **ra** Information Systems Technology or transfer or otherwise grant any rights in the **ra** Information Systems Technology and associated Intellectual Property Rights in any form to any other party.

5.4 Confidentiality The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by RA-IS or its agents, and any other confidential information concerning RA-IS's business or its products which the Customer may obtain. The Customer shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know it for the purpose of discharging the Customer's obligations to RA-IS, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the Customer. This condition 5.4 shall survive termination of the Contract, however arising.

6. Representations & Warranties.

6.1. Warranties. The Customer represents and warrants that it has not falsely identified itself nor provided any false information to gain access to the Service, and that the Customer will comply with the Use Guidelines, these Conditions and any further conditions imposed by RA-IS communicated to the Customer from time to time.

6.2. Limitation of Liability

6.2.1 The following provisions set out the entire financial liability of RA-IS including any liability for the acts or omissions of its employees, agents and sub-contractors to the Customer in respect of:

- (i) any breach of the Contract;
- (ii) any use made by the Customer of the Services or any part of them; and
- (iii) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

6.2.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

6.2.3 Nothing in these Conditions excludes the liability of RA-IS:

- (i) for death or personal injury caused by RA-IS's negligence; or
- (ii) for fraud or fraudulent misrepresentation.

6.2.4 Subject to the above RA-IS shall not be liable, whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation or otherwise for loss of profits; loss of business; depletion of goodwill or similar losses; loss of anticipated savings; loss of goods; loss of contract; loss of use; loss or corruption of data or information; any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

6.2.5 RA-IS's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the price paid for the Services.

6.3. Internet Delays. RA-IS's services may be subject to limitations, delays, and other problems inherent in the use of the Internet and electronic communications. RA-IS is not responsible for any delays, delivery failures, or other damage resulting from such problems.

7. Indemnity

7.1 The Customer shall indemnify RA-IS against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by RA-IS arising out of or in connection with:

- (i) the Customer's breach or negligent performance or non-performance of the Contract;

(ii) any claim made against RA-IS for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Services; and

(iii) any claim made against RA-IS by a third party arising out of or in connection with the provision of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Customer, its employees, agents or subcontractors.

7.2 This indemnity shall apply whether or not RA-IS has been negligent or at fault.

7.3 If any third party makes a claim, or notifies an intention to make a claim, against RA-IS which may reasonably be considered likely to give rise to a liability under this indemnity (a **Claim**), RA-IS shall:

- (i) as soon as reasonably practicable, give written notice of the Claim to the Customer, specifying the nature of the Claim in reasonable detail;
- (ii) not make any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of the Customer such consent not to be unreasonably conditioned, withheld or delayed, provided that RA-IS may settle the Claim after giving prior written notice of the terms of settlement to the extent legally possible to the Customer, but without obtaining the Customer's consent) if RA-IS believes that failure to settle the Claim would be prejudicial to it in any material respect;
- (iii) give the Customer access at reasonable times on reasonable prior notice to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the power or control of RA-IS, so as to enable the Customer and its professional advisers to examine them and to take copies for the purpose of assessing the Claim; and
- (iv) subject to the Customer providing security to RA-IS to RA-IS's reasonable satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, take such action as the Customer may reasonably request to avoid, dispute, compromise or defend the Claim.

7.4 If a payment due from the Customer under this clause is subject to tax (whether by way of direct assessment or withholding at its source), RA-IS shall be entitled to receive from the Customer such amounts as shall ensure that the net receipt, after tax, to RA-IS in respect of the payment is the same as it would have been were the payment not subject to tax.

7.5 Nothing in this clause shall restrict or limit RA-IS's general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under this indemnity.

8. Term & Termination.

8.1. Term. The term of the Contract shall begin on the Commencement Date for 12 calendar months. After the initial period the term shall continue until the Notice and subsequent Termination is received by either party, unless additional Licence Terms have been added. The Contract shall, subject to Section 8.2 below, and in accordance with Order Confirmations associated with the Contract, unless otherwise earlier terminated be pursuant to these Conditions.

8.2. Renewal and Termination of Licences. Unless the Customer or RA-IS notifies the other party in writing at least 3 calendar months prior to the expiration of the Initial Term or any additional Licence Terms set forth in any Order Confirmations, all User licences shall be automatically renewed for an additional rolling annual term, at the list price licence fees at the time in effect for the licences being renewed.

8.3. Termination for Cause. Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate the Contract without liability to the other if:

- (i) remediable) fails to remedy that breach within 1 calendar month of that party being notified in writing of the breach; or
- (ii) an order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the other party; or
- (iii) an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or
- (iv) a receiver is appointed of any of the other party's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets; or
- (v) the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way, or becomes bankrupt; or
- (vi) the other party ceases, or threatens to cease, to trade; or
- (vii) there is a change of control of the other party; or
- (viii) the other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.

Termination of the Contract, however arising, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive, or implicitly surviving, termination.

8.4. Termination of Access. The termination of the Contract shall result in an immediate termination of the Customer's access to the Service, although such termination shall not relieve the Customer of the obligation to pay any fees accrued or payable to RA-IS for Services provided prior to the effective date of such termination.

8.5. Return of Customer Data. Upon termination of the Contract other than by reason of the Customer's material breach, RA-IS will make available to the Customer a file of the Customer Data within 1 calendar month of termination if the Customer so requests at the time of notification of termination, this activity will be chargeable at RA-IS current rates. RA-IS reserves the right to withhold, remove and/or discard the Customer Data without notice upon any uncured material breach by the Customer. In addition, upon termination of the Contract by RA-IS, the Customer's right to access or use the Customer Data immediately ceases, and

RA-IS shall have no obligation to maintain any of the Customer Data stored in the Customer's accounts or to forward any of the Customer Data to the Customer or any third party.

9. General Provisions.

9.1 Force majeure RA-IS shall have no liability to the Customer under the Contract if it is prevented from, or delayed in, performing its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of RA-IS or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors.

9.2 Waiver

(i) A waiver of any right under the Contract is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.

(ii) Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

9.3 Severance

(i) If any provision of the Contract and these Conditions is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

(ii) If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

9.4 Status of pre-contractual statements

Each of the parties acknowledges and agrees that in entering into the Contract it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to the Contract or not) relating to the subject matter of the Contract other than as expressly set out in these Conditions.

9.5 Assignment

(i) The Customer shall not, without the prior written consent of RA-IS, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

(ii) RA-IS may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

9.6 No Partnership or Agency

Nothing in the Contract is intended to or shall operate to create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power)

9.7 Third Party Rights

The Contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns, and is not intended to benefit, or be enforceable by, anyone else.

9.8 Notices

Any notice under the Contract shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address as set out in the Contract, or such other address as may have been notified by that party for such purposes, or sent by fax to the other party's fax number as set out in the Contract. A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not during business hours, at 9.00 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

9.9 Governing Law and Jurisdiction

(i) The Contract and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the law of England.

(ii) The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).