



pt Lifespan Software Licence Agreement For

Prepared by Property Tectonics
Lowry Mill • Suite 16 • Pendlebury • Manchester • M27 6DB

***pt* LIFESPAN SOFTWARE AGREEMENT**

THIS AGREEMENT is made on DATE

BETWEEN:

- (1) Property Tectonics Limited whose registered office is at Lowry Mill, Suite 16, Lees street, Pendlebury M27 6DB Company Registration No: 3611608 ('the Licensor'); and
- (2) TBC whose registered office is TBC ('the Licensee').

RECITALS

The Licensor is the entire legal and beneficial owner of certain computer software applications and is willing to license the Licensee to use those applications.

NOW IT IS AGREED as follows:

1 Definitions

In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

'Annual Licence and Support Fees	the fees as set out in Schedule 2 and such revision of the same as shall be notified to the Licensee by the Licensor from time to time
'Authorised Representative'	the persons respectively designated as such by the Licensor and the Licensee, the first persons being set out in Schedule 7.
'Data Controller'	shall have the same meaning as set out in the Data Protection Act 2018.
'Data Processor'	shall have the same meaning as set out in the Data Protection Act 2018.
'Data Protection Act 2018 '	up to but excluding 25 May 2018, the Data Protection Act 1998 and thereafter: a) unless and until the General Data Protection Regulation ((EU) 2016/679) (GDPR) is no longer directly applicable in the UK, the GDPR

	and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK; and then b) any successor legislation to the GDPR or the Data Protection Act 1998.
'Delivery Date'	the delivery date specified in Schedule 3 or such extended date as may be agreed between the parties.
'Effective Date'	the date of this agreement.
'Force Majeure'	any cause affecting the performance by a party by a party of its obligations under this agreement arising from acts, events, omissions or non-events beyond its reasonable control, including acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding any industrial dispute relating to the Licensee, the Licensee's personnel or any other failure in the Licensee's supply chain.
'Hosted Data'	the Data inputted by the Licensee using the Licenced Programs and hosted by the Licensor.
'Initial Licence Term'	twelve (12) Months from the Delivery Date
'Intellectual Property Rights'	all vested, contingent and future intellectual property rights including but not limited to copyright, trade marks, service marks, design rights (whether registered or unregistered), patents, know-how, trade secrets, inventions, get-up, database rights and any applications for the protection or registration or these rights and all renewals and extensions thereof existing in any part of the world whether now known or in the future created to which the Licensor may be entitled.

'Licence'	the licence granted by the Licensor pursuant to clause 2.1.
'Licensee Data'	the data inputted by the Licensee, or the Supplier on the Licensee 's behalf for the purpose of using the Services or facilitating the Licensee's use of the Services including the Hosted Data
'Licensed Program Materials'	the Licensed Programs, the Program Documentation and the Media.
'Licensed Programs'	the systems, applications and computer programs of the Licensor specified in Schedule 1.
'Media'	the media specified in Schedule 4 on which the Licensed Programs and the Program Documentation are recorded or printed as provided to the Licensee by the Licensor.
'Personal Data'	shall have the same meaning as set out in the Data Protection Act 2018.
'Program Documentation'	the operating manuals, user instructions, technical literature and all other related materials in eye-readable form supplied to the Licensee by the Licensor for aiding the use and application of the Licensed Programs.
'Renewal Period'	The period set out in clause 13.
Services	Collectively the services provided by the Licensor to the Licensee under the provisions of this License Agreement.
'Software Support Services'	the software support services provided by the Licensor to the Licensee during the Term as specified in Schedule 2.

'Specification'	the specification annexed to this Agreement as Schedule 5 describing the facilities and functions of the Licensed Programs.
'Subscription Fees'	The subscription fees payable by the Licensee to the Licensor for the services provided for in this agreement and calculated by reference to the number of UPRNs as set out in Schedule 1 and the fees set out in Schedule 2 and adjusted in accordance with the provisions of clauses 3.2 and 4.4.
'Term'	The Initial Licence Term and such period thereafter as detailed in clause 3.
'UPRN'	unique property reference number
'Use the Licensed Program Materials'	to read all or any part of the Licensed Programs from magnetic or other storage media, to load the Licensed Programs on the Equipment for the storage and running of the Licensed Programs, to read and possess the Program Documentation in conjunction with the use of the Licensed Programs and to possess the Media

2 Grant of Licence

- 2.1 In consideration of the Licensee's obligation to pay the Subscription Fee under clause 4, the Licensor grants to the Licensee a non-exclusive licence to Use the Licensed Program Materials during the Term subject to the terms and conditions contained in this Agreement.
- 2.2 The Licensee shall use the Licensed Program Materials for processing the Licensee Data for its own internal business purposes only.
- 2.3 The Licence shall not be deemed to extend to any programs or materials of the Licensor other than the Licensed Program Materials unless specifically agreed to in writing by the Licensor.

- 2.4 The Licensee acknowledges that it is licensed to Use the Licensed Program Materials only in accordance with the express terms of this Agreement and not further or otherwise.

3 Term

- 3.1 The Licence shall commence on the Delivery Date and shall continue for an initial period of one (1) year and from year to year thereafter until or unless terminated in accordance with any of the provisions of clause 13 or any other clause of this Agreement.
- 3.2 One month prior to the annual renewal of the Licence a UPRN count will be undertaken by the Licensor of the Licensee's database for the purpose of determining if a higher level of Subscription Fees for the following year is applicable in accordance with the provisions of clause 4.4.

4 Payment

- 4.1 The Licensee shall pay the Subscription Fees to the Licensor for the Licence in accordance with this clause 4 and Schedule 2.
- 4.1.1 The Licensee shall as soon as practicable after the Effective Date provide to the Licensor valid, up-to-date and complete invoicing and purchase order information acceptable to the Licensor or where such invoicing and purchase order information is unavailable and credit card details and any other relevant valid, up-to-date and complete contact and billing details and the Licensee hereby authorises the Licensor to bill such credit card:
- 4.1.1.1 on the Effective Date for the Subscription Fees payable in respect of the Initial Licence Term; and
- 4.1.1.2 subject to clause 13 on each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period;
- 4.1.2 If the Licensee sends its approved purchase order information to the Licensor, the Licensor shall invoice the Licensee:
- 4.1.2.1 on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term; and

- 4.1.2.2 subject to clause 13, at least 30 days prior to each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period and the Licensee shall pay each invoice within 30 days after the date of such invoice.;
- 4.2 If the Licensor has not received payment in accordance with clause 4.1 and clause 4.4 and without prejudice to any other rights and remedies of the Licensor:
- 4.2.1 the Licensor may, without liability to the Licensee, disable the Licensee's password, account and access to all or part of the Services and the Licensor shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
- 4.2.2 interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the then current base lending rate of Barclays Bank plc from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 4.3 All amounts and fees stated or referred to in this agreement:
- 4.3.1 shall be payable in pounds Sterling;
- 4.3.2 are, non-cancellable and non-refundable;
- 4.3.3 are exclusive of value added tax, which shall be added to the Licensor's invoice(s) at the appropriate rate.
- 4.4 If, at any time whilst using the Services, the Licensee moves into a higher grading in the payment schedule due to an increase in the number of properties, the Licensor shall charge the Licensee, and the Licensee shall pay, the revised Subscription Fees.

At intervals of not less than 12 months, the Licensor shall produce a revised Annual Licence and Support Fees and notify the Licensee of the same, which shall increase the said fees by not less than a figure determined by applying the prevailing Retail Price Index. Schedule 2 shall be deemed to have been amended accordingly and any renewal of this agreement shall be based on the figures set out in the most recently notified Annual Licence and Support Fees.

- 4.5 The Licensor shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to the Licensee pursuant to this Agreement. Such records shall be retained for inspection by the Licensee for seven (7) years from the end of the contract year to which the records relate.

5 Delivery and Support

- 5.1 On the Delivery Date the Licensor shall deliver the Licensed Program Materials to the Licensee. The Licensed Programs so delivered shall consist of one copy of the object code of the Licensed Programs in machine-readable form only, on the Media.
- 5.2 The Licensor shall, subject to the payment of the Annual Software Support Fee provide the Software Support Services during the Term.
- 5.3 In the event that the method of Delivery is by virtue of access via the internet then Schedule 6 shall apply.
- 5.4 The licensee shall ensure all Lifespan users are properly trained and competent to use the software at an appropriate level.

6 Copying

- 6.1 The Licensee may make only so many copies of the Licensed Programs as are reasonably necessary for operational security and use. Such copies and the media on which they are stored shall be the property of the Licensor and the Licensee shall ensure that all such copies bear the Licensor's proprietary notice. The Licence shall apply to all such copies as it applies to the Licensed Programs.
- 6.2 No copies may be made of the Program Documentation without the prior written consent of the Licensor. The Licensor shall provide the Licensee with the Program Documentation containing sufficient information to enable proper use of all the facilities and functions set out in the Specification. If the Licensee requires further copies of the Program Documentation, then these may be obtained under licence from the Licensor in accordance with its standard scale of charges from time to time in force.

7 Restrictions on alterations

- 7.1 The Licensee undertakes not to translate, adapt, vary, modify, disassemble, decompile or reverse engineer the Licensed Program Materials without the Licensor's prior written consent.

8 Security and control

The Licensee shall during the continuance of the Licence:

- 8.1 effect and maintain reasonable security measures, which measures shall be as great as the measures the Licensee uses to keep the Licensee's own confidential material secure (but in any case, using not less than a reasonable degree of care), to safeguard to safeguard the Licensed Program Materials from access or use by any unauthorised person;
- 8.2 retain the Licensed Program Materials and all copies thereof under the Licensee's effective control;
- 8.3 maintain a full and accurate record of the Licensee's copying and disclosure of the Licensed Program Materials and produce such record to the Licenser on the Licenser's request from time to time.

9 Proprietary rights

- 9.1 The Licensed Program Materials and the Intellectual Property Rights of whatever nature in the Licensed Program Materials are and shall remain the property of the Licenser.
- 9.2 The Licensee shall notify the Licenser immediately if the Licensee becomes aware of any unauthorised use of the whole or any part of the Licensed Program Materials by any person.
- 9.3 The Intellectual Property Rights in the Licensee Data shall at all times be vested in the Licensee who shall have an unfettered right to that data from the Licenser or its successors or assigns.
- 9.4 Any modification, amendment, enhancement or bespoke configuration of the Licensed Program Materials arrived at in consultation with or at the request of the Licensee shall form part of the Licensed Program Materials and the Intellectual Property Rights of the same shall remain vested in the Licenser and the Licensee will not assert any contrary position or any title to the same.

10 Intellectual Property Rights

- 10.1 The Licenser undertakes to defend the Licensee at its own expense from and against any claim brought against the Licensee alleging that the possession or use, of the Licensed Program Materials (or any part thereof) infringes the Intellectual Property Rights of a third party ('Intellectual Property Claim') and the Licenser shall fully indemnify and hold harmless the Licensee from and against any losses, damages,

costs (including all legal fees) and expenses incurred by or awarded against the Licensee as a result of, or in connection with and such Intellectual Property Claim.

10.2 If any third party makes an Intellectual Property Claim, or notifies an intention to make an Intellectual Property Claim, against the Licensee, the Licensee shall:

10.2.1 as soon as reasonably practicable furnish the Licensor with written notice of the Intellectual Property Claim;

10.2.2 make no comment or admission of liability, agreement or compromise in relation to the Intellectual Property Claim that may adversely affect the Licensor's ability to defend or settle an Intellectual Property Claim without the prior written consent of the Licensor (such consent not to be unreasonably conditioned, withheld or delayed);

10.2.3 provides (at the Licensor's cost) the Licensor with reasonable assistance in respect of the Intellectual Property Claim;

10.2.4 subject to the Licensor providing security to the Licensee to the Licensee's satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, take such action as the Licensor may reasonably request to avoid, dispute, compromise or defend the Intellectual Property Claim;

10.3 Without prejudice to clause 10.1, if, in the Licensor's reasonable opinion, the use of the Licensed Program Materials is or may become the subject of an Intellectual Property Claim then the Licensor shall either:

10.3.1 obtain for the Licensee the right to continue using the Licensed Program Materials which are the subject of the Intellectual Property Claim; or

10.3.2 replace or, with the written consent of the Licensee, modify the Licensed Program Materials which are the subject of the Intellectual Property Claim, so they become non-infringing. provided that if the Licensor modifies or replaces the Licensed Program Materials, the modified Licensed Program Software, must comply with the warranties contained in this Agreement and the Licensee shall have the same rights in respect thereof as it would have had under those clauses had the references to the date of this licence been references to the date on which such modification or replacement was made.

10.4 If the remedies set out in clause 10.2 above are not reasonably economically available, then the Licensee shall return the Licensed Program Materials which are

the subject of the Intellectual Property Claim and the Licensors shall refund to the Licensee the corresponding portion of the Licence Fee, as normally depreciated, whereupon this Agreement shall immediately terminate.

10.5 The Licensors shall have no liability for any Intellectual Property Claim resulting from the Use of the Licensed Program Materials in combination with any programs not supplied or approved by the Licensors or any modification of any item of the Licensed Programs by a party other than the Licensors or its authorised agent.

10.6 The parties agree that this clause 11 sets out the Licensors' responsibility and liability to the Licensee in the event of an Intellectual Property Claim.

11 Warranties

11.1 The Licensors warrants that for ninety (90) days following the Delivery Date:

11.1.1 the Licensed Programs will substantially provide the facilities and functions set out in the Specification when properly used on the Equipment;

11.1.2 the Program Documentation will provide adequate instructions to enable the Licensee to make proper use of such facilities and functions;

11.2 The Licensors warrants that in providing its obligations under this Agreement it will attain standards of care and skill as high as any currently available in the software industry and that all personnel will have qualifications and experience appropriate for the tasks to which they are allocated.

11.3 The Licensors shall ensure that it and its servants, agents and subcontractors take all reasonable precautions to ensure that no known viruses and/or malicious code for which detection and antidote software is generally available are coded or introduced into the Licensed Programs.

11.4 If the Licensors receives written notice from the Licensee after the Delivery Date of any breach of the said warranties, then the Licensors shall at its own expense and within four (4) weeks after receiving such notice remedy the defect or error in question.

11.5 When notifying a defect or error the Licensee shall (so far as it is able) provide the Licensors with a documented example of such defect or error.

- 11.6 The said warranties above shall be subject to the Licensee complying with its obligations under the terms of this Agreement and shall also be subject to the limits and exclusions of liability set out in clause 13 below. In particular, the said warranties shall not apply to the extent that any defect in the Licensed Programs arose or was exacerbated as a result of:
- 11.6.1 incorrect use, operation or corruption of the Licensed Programs;
 - 11.6.2 any unauthorised modification or alteration of the Licensed Programs;
 - 11.6.3 use of the Licensed Programs with other software or on equipment with which it is incompatible.
- 11.7 To the extent permitted by applicable law, the Licensor:
- 11.7.1 disclaims all other warranties with respect to the Licensed Programs, either express or implied, including but not limited to any implied warranties relating to quality, fitness for any particular purpose or ability to achieve a particular result;
 - 11.7.2 makes no warranty that the Licensed Programs are error free or that the Licensee's use of the Licensed Programs will be uninterrupted, and the Licensee acknowledges and agrees that the existence of such errors and occurrence of such interruptions shall not constitute a breach of this Agreement;
- 11.8 The warranties in this clause 11 shall apply to any modification and/or replacement of the Licensed Program Materials as though the references to the date of this licence were references to the date on which such modification and/or replacement was acquired

12 Liability

- 12.1 Nothing in this clause 12 shall exclude the Licensor from liability for death or personal injury caused by its negligence, or the negligence of its employees or agents, or for fraud or fraudulent misrepresentation or the deliberate default or wilful misconduct of that party, its employees or agents or subcontractors.
- 12.2 In no event shall the Licensor be liable for any damages resulting from loss of data or use, lost profits, loss of anticipated savings, nor for any damages that are an indirect or secondary consequence of any act or omission of the Licensor whether such

damages were reasonably foreseeable or actually foreseen or if the Licensor has been advised of the possibility that such damages might occur.

- 12.3 Except as provided above in the case of personal injury, death and damage to tangible property, the Licensor's maximum liability to the Licensee under this Agreement or otherwise for any cause whatsoever (whether in the form of the additional cost of remedial services or otherwise) shall be for direct costs and damages only and will be limited to a sum equivalent to the price paid to the Licensor for the products or services that are the subject of the Licensee's claim, plus damages limited to 25% of the same amount for any additional costs directly, reasonably and necessarily incurred by the Licensee in obtaining alternative products and/or services.
- 12.4 The parties acknowledge and agree that the limitations contained in this clause 12.3 are reasonable in the light of all the circumstances.
- 12.5 If the Licensee is a consumer, the Licensee's statutory rights as a consumer are not affected.
- 12.6 All liability that is not expressly assumed in this Agreement is excluded. These limitations will apply regardless of the form of action, whether under statute, in contract or tort including negligence or any other form of action. For the purposes of this clause, the 'Licensor' includes its employees, sub-contractors and suppliers who shall all have the benefit of the limits and exclusions of liability set out above in terms of the Contracts (Rights of Third Parties) Act 1999. Nothing in this Agreement shall exclude or limit liability for fraudulent misrepresentation.

13 Termination

- 13.1 This agreement shall, unless otherwise terminated as provided in this clause 13, commence on the Effective Date and shall continue for the Initial Licence Term and, thereafter, this agreement shall be automatically renewed for successive periods of twelve (12) months (each a Renewal Period), unless:
 - 13.1.1 either party notifies the other party of termination, in writing, at least sixty (60) days before the end of the Initial Subscription Term or any Renewal Period, in which case this agreement shall terminate upon the expiry of the applicable Initial Licence Term or Renewal Period; or

- 13.1.2 otherwise terminated in accordance with the provisions of this agreement; and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the Subscription Term.
- 13.2 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:
- 13.2.1 the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than thirty (30) days after being notified in writing to make such payment;]
- 13.2.2 the other party commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so;
- 13.2.3 the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- 13.2.4 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986
- 13.2.5 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- 13.2.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- 13.2.7 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;
- 13.2.8 the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;

- 13.2.9 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- 13.2.10 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within fourteen (14) days;
- 13.2.11 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.2.4 to clause 13.2.10 (inclusive);
- 13.2.12 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- 13.3 On termination of this agreement for any reason:
- 13.3.1 all licences granted under this agreement shall immediately terminate;
- 13.3.2 each party shall return and make no further use of any equipment, property, Media and other items (and all copies of them) belonging to the other party;
- 13.3.3 the Licensor may destroy or otherwise dispose of any of the Licensee Data in its possession unless the Licensor receives, no later than three (3) months after the effective date of the termination of this agreement, a written request for the delivery to the Licensee of the then most recent back-up of the Licensee Data. The Licensor shall use reasonable commercial endeavours to deliver the back-up to the Licensee within thirty (30) days of its receipt of such a written request, provided that the Licensee has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Licensee shall pay all reasonable expenses incurred by the Licensor in returning or disposing of Licensee Data; and
- 13.3.4 any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.
- 13.4 In the event that the Licensee shall seek to terminate within the initial Subscription Term, the Licensee shall remain liable for the aggregate remaining Subscription Fees

for the balance of the Term which shall fall due immediately upon service of notice of termination

- 13.5 In the event of termination of this Agreement by the Licensee (or by the Licensor in circumstances where the Licensee is in breach of contract) the Licensee shall not be entitled to any refund for any unexpired portion of the Subscription Fees

14 Data Protection and Licensee Data

- 14.1 The Licensee shall own all right, title and interest in and to all of the Licensee Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Licensee Data.

- 14.2 The Supplier shall follow its archiving procedures for Licensee Data as set out in its back-up policy available on request, and such document may be amended by the Supplier in its sole discretion from time to time. In the event of any loss or damage to Licensee Data, the Licensee's sole and exclusive remedy against the Supplier shall be for the Supplier to use reasonable commercial endeavours to restore the lost or damaged Licensee Data from the latest back-up of such Licensee Data maintained by the Supplier in accordance with the archiving procedure described in its back-up policy. The Supplier shall not be responsible for any loss, destruction, alteration or disclosure of Licensee Data caused by any third party (except those third parties sub-contracted by the Supplier to perform services related to Licensee Data maintenance and back-up for which it shall remain fully liable under clause 14.9).

- 14.3 The Supplier shall, in providing the Services, comply with its privacy and security policy relating to the privacy and security of the Licensee Data available on request and such document may be amended from time to time by the Supplier in its sole discretion.

- 14.4 Both parties will comply with all applicable requirements of the Data Protection Act 2018. This clause 14 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Act 2018.

- 14.5 The parties acknowledge that:

- 14.5.1 if the Supplier processes any personal data on the Licensee's behalf when performing its obligations under this agreement, the Licensee is the data controller and the Supplier is the data processor for the purposes of the Data Protection Act 2018 (where

Data Controller and Data Processor have the meanings as defined in the Data Protection Act 2018).

- 14.5.2 the personal data may be transferred or stored outside the EEA or the country where the Licensee is located in order to carry out the Services and the Supplier's other obligations under this agreement.
- 14.6 Without prejudice to the generality of clause 14.4, the Licensee will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of this agreement so that the Supplier may lawfully use, process and transfer the Personal Data in accordance with this agreement on the Licensee's behalf.
- 14.7 Without prejudice to the generality of clause 14.4, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this agreement:
 - 14.7.1 process that Personal Data only on the written instructions of the Licensee unless the Supplier is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Supplier to process Personal Data (Applicable Laws). Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Licensee of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Licensee;
 - 14.7.2 not transfer any Personal Data outside of the European Economic Area and the United Kingdom unless the following conditions are fulfilled:
 - 14.7.2.1 the Licensee or the Supplier has provided appropriate safeguards in relation to the transfer;
 - 14.7.2.2 the data subject has enforceable rights and effective legal remedies;
 - 14.7.2.3 the Supplier complies with its obligations under the Data Protection Act 2018 by providing an adequate level of protection to any Personal Data that is transferred; and
 - 14.7.2.4 the Supplier complies with reasonable instructions notified to it in advance by the Licensee with respect to the processing of the Personal Data;

- 14.7.3 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 Act 2018 with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 14.7.4 notify the Licensee without undue delay on becoming aware of a Personal Data breach;
- 14.7.5 at the written direction of the Licensee, delete or return Personal Data and copies thereof to the Licensee on termination of the agreement unless required by Applicable Law to store the Personal Data; and
- 14.7.6 maintain complete and accurate records and information to demonstrate its compliance with this clause 14.
- 14.8 Each party shall ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, 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 (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).
- 14.9 The Licensee consents to the Supplier appointing Iomart Hosting Limited as a third-party processor of Personal Data under this agreement. The Supplier confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business. As between the Licensee and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 14.

15 Interpretation

- 15.1 In this Agreement unless the context otherwise requires:

- 15.1.1 words importing any gender include every gender;
- 15.1.2 words importing the singular number include the plural number and vice versa;
- 15.1.3 words importing persons include firms, companies and corporations and vice versa;
- 15.1.4 references to numbered clauses and schedules are references to the relevant clause in or schedule to this Agreement;
- 15.1.5 reference in any schedule to this Agreement to numbered paragraphs relate to the numbered paragraphs of that schedule;
- 15.1.6 the headings to the clauses, schedules and paragraphs of this Agreement will not affect the interpretation;
- 15.1.7 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment;
- 15.1.8 any obligation on any party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;
- 15.1.9 any party who agrees to do something will be deemed to fulfil that obligation if that party procures that it is done.
- 15.2 In the case of conflict or ambiguity between any provision contained in the body of this Agreement and any provision contained in any schedule, the provision in the body of this Agreement shall take precedence.

16 Nature of relationship

- 16.1 This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary or other relationship between the parties other than the contractual relationship expressly provided for in this Agreement.

17 Amendments

- 17.1 This Agreement may not be released, discharged, supplemented, interpreted, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorised officer or representative of each party.

18 Announcements

- 18.1 Neither party shall issue or make any public announcement or disclose any information regarding this Agreement unless prior written consent has been obtained from the other party not to be unreasonably withheld or delayed.

19 Assignment and Novation

- 19.1 This Agreement is personal to the parties and, subject to clause 19.2 below or as otherwise expressly provided, neither this Agreement nor any rights, licences or obligations under it, may be assigned or transferred by either party without the prior written approval of the other party.
- 19.2 Notwithstanding the foregoing, either party may assign its rights and licences and transfer its obligations under this Agreement to any acquirer of all or of substantially all of such party's equity securities, assets or business relating to the subject matter of this Agreement or to any entity controlled by, that controls, or is under common control with a party to this Agreement. Any attempted assignment or transfer in violation of this clause 20 will be void and without effect.

20 Entire agreement

- 20.1 This Agreement supersedes all prior agreements, arrangements and undertakings between the parties and constitutes the entire agreement between the parties relating to its subject matter. The parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement.

21 Force majeure

- 21.1 Neither party shall have any liability under or be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of that party. If such circumstances continue for a continuous period of more than six (6) months, the non-affected party may terminate this Agreement by written notice to the other party.

22 Notices

- 22.1 All notices or other communication which is to be given by either party under this Agreement shall be in writing and must be in English. Such notice or other

communication shall be marked for the attention of the other party's Authorised Representative.

22.2 Notices shall be deemed to have been duly given:

22.2.1 if delivered by hand, including where delivered by courier or other messenger service, on signature of a delivery receipt;

22.2.2 if delivered by pre-paid first class recorded post or other next working day delivery service, at 9.00 a.m. on the second (2nd) working day after posting or at the time recorded by the delivery service;

22.2.3 if transmitted by fax on successful transmission report being generated;

22.2.4 if sent by email, at 9.00 a.m. on the next working day after transmission provided always that such email has been sent to the party's Authorised Representative at the email specified and subsequently confirmed by letter marked for the attention of the party's Authorised Representative and delivered by hand or by pre-paid first-class recorded post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).

23 Schedules

23.1 The provisions of Schedules 1–5 shall form part of this Agreement as if set out here.

24 Severance

24.1 If any provision or part provision of this Agreement is or becomes prohibited by law or is judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and shall not in any way affect any other circumstances of or the validity or enforcement of the remainder of this Agreement.

25 Successors and assignees

25.1 This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assignees, and references to a party in this Agreement shall include its successors and permitted assignees.

- 25.2 In this Agreement references to a party include references to a person:
- 25.2.1 who for the time being is entitled (by assignment, novation or otherwise) to that party's rights under this Agreement (or any interest in those rights); or
- 25.2.2 who, as administrator, liquidator or otherwise, is entitled to exercise those rights,
- and in particular those references include a person to whom those rights (or any interest in those rights) are transferred or pass as a result of a merger, division, reconstruction or other reorganisation involving that party. For this purpose, references to a party's rights under this Agreement include any similar rights to which another person becomes entitled as a result of a novation of this Agreement.

26 Waiver

- 26.1 Unless a party expressly waives its rights in writing, no delay, neglect or forbearance by either party in enforcing against the other party any term or condition of this Agreement shall either be or be deemed to be a waiver or in any way prejudice any right of that party under this Agreement. No right, power or remedy in this Agreement conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party.

27 Counterparts

- 27.1 This Agreement may be executed in any number of counterparts, each of which shall be an original, and such counterpart shall together constitute one and the same agreement. No counterpart shall be effective until each party has executed at least one counterpart.

28 Time of the essence

- 28.1 Time shall be of the essence in this Agreement as regards any time, date or period mentioned in this Agreement or subsequently substituted as a time, date or period by agreement in writing between the parties.

29 Language

- 29.1 This Agreement is made only in the English language. If there is any conflict in the meaning between the English language version of this Agreement and any version or translation of it in any other language, the English language version shall prevail.

30 Costs and expenses

- 30.1 Each party shall bear its own legal costs and other costs and expenses arising in connection with the drafting, negotiation, execution and registration (if applicable) of this Agreement.

31 Set-off

- 31.1 Where either party has incurred any liability to the other party, whether under this Agreement or otherwise, and whether such liability is liquidated or unliquidated, each party may set off the amount of such liability against any sum that would otherwise be due to the other party under this Agreement.

32 Third parties

- 32.1 Without prejudice to any right or remedy of a third party which exists or is available apart from such Act, and except as expressly provided elsewhere in this Agreement, a person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. The parties to this Agreement do not require the consent of any third party to terminate, rescind or to agree any variation, waiver or settlement in relation to it.

33 Proper law and jurisdiction

- 33.1 The parties agree that the place of performance of this Agreement is England and Wales. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.
- 33.2 The Licensor shall have the right to sue to recover its fees in any jurisdiction in which the Licensee is operating or has assets; and
- 33.2.1 shall have the right to sue for breach of its Intellectual Property Rights and other proprietary information (whether in connection with this Agreement or otherwise) in any country where it believes that infringement or a breach of this Agreement relating to its Intellectual Property Rights and/or other proprietary information might be taking place.
- 33.3 Each party recognises that the other party's business relies upon the protection of its Intellectual Property Rights and that in the event of a breach or threatened breach of its Intellectual Property Rights, the other party will be caused irreparable damage and

such other party may therefore be entitled to injunctive or other equitable relief in order to prevent a breach or threatened breach of its Intellectual Property Rights.

34 Non-poaching of staff

- 34.1 The Licensee covenants with the Licensor that it shall not either during the term of this Agreement or within a period of six (6) months thereafter directly or indirectly entice away or endeavour to entice away from the Licensor any person who has during the previous twelve (12) months been employed by Licensor to perform this Agreement.

35 Compliance with relevant law

- 35.1 Both parties will comply with all applicable laws, rules and regulations in respect of all activities conducted under this Agreement. AS WITNESS whereof the parties have set their hand the day and year first before written

SCHEDULE 1

Product

Renewal Month

SCHEDULE 2

Initial Annual Licence and Support Fees April 25 – March 26

Product	Purchase Date	Purchase Price

All Fees shown are exclusive of VAT

Annual licence and support to include the following:

- Web Hosting
- Email and telephone helpdesk support available from 9:00hrs to 17:00hrs; Monday – Friday excluding bank holidays. When an incident cannot be replicated over the phone remote support will be provided wherever possible. If the licensee cannot or refuses to provide Property Tectonics remote access a site visit will be provided which will be charged at agreed rates.
- Product documentation provided as training manuals and videos available for download from Property Tectonics website.
- Product updates released due to software fixes, functional requirements and improvements, but this does not include major developments.
- Support will include a modest level of user competency support but is not a substitute for user training in accordance with clause 5.4.

SCHEDULE 3

Delivery Date (for new customers) to be agreed

SCHEDULE 4

The software is provided as Software as a Service which is hosted on Property Tectonics web servers.

The most common risks associated with web applications are security and loss of ownership, and we take these concerns very seriously.

- Compliance – since 2007 we have had to comply with stringent requirements for security, data protection and disaster recovery set out by government for the administration of our energy apps (for RdSAP, SBEM and DEC).
- Infrastructure – our web servers are located at a secure, purpose-built facility in central Manchester, with protection and redundancy built in against the risk of natural disaster and utility failure.
- Ownership – All data is continually backed up to multiple off-site locations. You retain ownership of your data and may request a copy at any time.
- Access – user accounts and access levels can be flexibly restricted both by yourselves and your in-house IT team through the back-end section of the application

SCHEDULE 5

Client PC Specification:

	Client PC
Minimum	2GHz+ Processor with 4GB+ Memory, Windows 10 with a high-resolution display
Recommended	3GHz+ Processor with 8GB+ Memory, Windows 10 with a high-resolution display
Prerequisite software	Google Chrome or compatible browser

SCHEDULE 6

Additional Terms for Access to the Licensed Programs via the Internet

1. In the event that the Licensee opts to use the web- based version of the Licensed Programs then this Schedule shall apply, and the terms and conditions set out in this agreement shall be deemed to be modified accordingly.
2. The Term “Media” shall be deemed to include electronic transmission of the functionality of the Licensed Program materials and access of the same remotely via an internet connection.
3. Provisions relating to “Licensed Program Materials” and the Delivery of the same shall accordingly be construed.
4. “Software Support Services” shall be deemed to include appropriate assistance with the access to and functionality of the web based version of the Licensed Programs.
5. “Delivery Date” shall be the date whereupon the Licensee was given permissions to access the web based version of the Licensed Programs.
7. In the event of termination, in addition to the matters set out in Clause 13 of this agreement, access by the Licensee to the web based Licensed Programs will be terminated without separate notice having been given.
8. Rights of access to the web based Licensed Programs are limited to the Licensee only and are no transferrable or assignable.

SCHEDULE 7

Authorised Representatives

1. The Licensor's initial Authorised Representative:

Name: Esther Brady

Title: Managing Director

Address: Property Tectonics Limited, Suite 16, Lowry Mill, Lees Street,
Pendlebury Manchester M27 6DB

Telephone Number: 0161 794 9977

Email address: esther.brady@property-tectonics.co.uk

2. The Licensee's initial Authorised Representative:

Name: _____

Title: _____

Address: _____

Telephone Number: _____

Email address: _____

Signed for and on
behalf of the Licensor

)
)



Date:

Name:

Esther Brady

Job Title:

Managing Director

Signed for and on

)

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behalf of the Licensee

)

.....

Date:

.....

Name:

.....

Job Title:

.....