

THIS IT SERVICES FRAMEWORK AGREEMENT is made on the day of

BETWEEN:

- (1) ICE Creates is a company registered in England under number 03881965 whose registered office is at **2 Monks Ferry, Birkenhead, Wirral, CH41 5LH, United Kingdom** (“the Supplier”)
- and
- (2) <<Name of Company>> [a company registered in England under number <<Company Registration Number>> whose registered office is at] **OR** [of] <<insert Address>> (“Company”)

1. Definitions

1.1 In this Agreement, the following expressions have the following meanings:

“Agreement”	means this IT Services Framework Agreement including all of its Schedules.
“Call Off Contract”	means an agreement made pursuant to the Ordering Procedure for the provision of any IT Service by the Supplier to the Company and the purchase of the same by the Company
“Commencement Date”	means the date of this Agreement.
“Force Majeure Cause”	means a cause that falls within Clause 8 of this Agreement.
“IT Service”	means a service of any one or more of the following types: [Software Development and Licensing] [Software Support & Maintenance] [IT Support Service Levels] [Hardware and Software Services]
“Order Form”	means an offer in writing in substantially the form set out in the Appendix to Schedule 1 (Ordering Procedure).
“Ordering Procedure”	means the procedure set out in Schedule 1
“Relevant Call Off Terms”	means the particular set of supplementary terms and conditions which are set out in a Schedule and are applicable (as provided by this Agreement) to a particular Call Off Contract; and
“Term”	means the period commencing on the Commencement Date and ending on the <<insert e.g. second, third, fourth>>anniversary of the Commencement Date or on earlier termination of this Agreement

1.2 Unless the context otherwise requires, each reference in this Agreement to:

- 1.2.1 "writing", and any cognate expression, includes a reference to any communication effected by electronic or similar means.
- 1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time.
- 1.2.3 "Agreement" is a reference to this IT Services Framework Agreement and each of the Schedules as amended or supplemented at the relevant time.
- 1.2.4 a Schedule is a schedule to this Agreement.
- 1.2.5 an Annex is, in relation to this Agreement, an annex attached to (and forming part of) Relevant Call Off Terms in a Schedule or, in relation to a particular Call Off Contract, is instead an annex attached to the Order Form for that Call Off Contract; and
- 1.2.6 a "party" or the "parties" refer to the parties to this Agreement.
- 1.3 Reference in this Agreement to a Clause or paragraph is a reference to a Clause or paragraph of this Agreement (other than the Schedules)
- 1.4 Reference in a Call Off Contract to a Clause or paragraph is a reference to a Clause or paragraph of that Call Off Contract.
- 1.5 Where any provision of this Agreement that is deemed to be incorporated in a Call Off Contract refers to "this Agreement", that reference shall in that Call Off Contract be deemed to refer instead to "the Call Off Contract" as necessary or appropriate to give proper effect to that Call Off Contract as intended by this Agreement.
- 1.6 The headings used in this Agreement and in a Call Off Contract are for convenience only and shall have no effect upon the interpretation of it.
- 1.7 Words imparting the singular number shall include the plural and vice versa.
- 1.8 References to any gender shall include the other gender.
- 1.9 References to persons shall include corporations.

2. Purpose of this Agreement

The purpose of this Agreement is to:

- 2.1 provide a means whereby the parties may enter into one or more Call Off Contracts.
- 2.2 [provide the framework to administer each Call Off Contract]; and
- 2.3 set out the terms and conditions that are to apply to each Call Off Contract.

3. Term

This Agreement shall take effect on the Commencement Date and shall terminate at the end of the Term unless sooner terminated in accordance with the provisions of this Agreement.

4. Scope of this Agreement

- 4.1 This Agreement governs the relationship between the parties in relation to the supply of any IT Service by the Supplier to the Company.
- 4.2 The Company may in its absolute discretion, during the Term from time to time, place an order in accordance with the Ordering Procedure to purchase any IT Service from the Supplier.

- 4.3 The parties agree that:
- 4.3.1 The Company has no obligation to purchase any particular IT Service or any minimum quantity or value of any type(s) of IT Service from the Supplier during the Term; and
 - 4.3.2 No form of exclusive arrangement is created by this Agreement and nothing in this Agreement shall either prevent the Company from obtaining from any third party/ies any services similar to or the same as any of the IT Services or prevent the Supplier from providing to any third party/ies any services similar to or the same as any of the IT Services.
- 4.4 The parties agree that each Call Off Contract made for an IT Service shall be deemed to comprise both the relevant Order Form and the acceptance of that Order Form (as that acceptance is prescribed in the Ordering Procedure). The Order Form shall be deemed to incorporate (as if set out in the Order Form) the Relevant Call Off Terms applicable to that IT Service as provided by this Agreement together with the provisions of this Agreement, and those provisions shall apply in that context in such manner as best achieves the proper purpose of this Agreement.
- 4.5 Except as may be specifically set out in an Order Form which is accepted and signed by the Supplier in relation to a particular Call Off Contract:
- 4.5.1 no additional or other terms and conditions of or communicated by or on behalf of either party to the other party shall be incorporated in any Call Off Contract nor shall any such additional or other terms or conditions be of any effect; and
 - 4.5.2 in particular, and for the avoidance of doubt, it is hereby confirmed that no Relevant Call Off Terms shall form part of or apply to a Call Off Contract for a particular IT Service if according to this Agreement they are only applicable to another type of IT Service.
- 4.6 Each Call Off Contract shall be a separate legally binding agreement between the parties.
- 4.7 Unless and until a Call Off Contract for any particular IT Service is entered into by the parties, there shall be no binding agreement between them in relation to that IT Service.
- 4.8 The term of each Call Off Contract shall be as provided by that Call Off Contract, it shall expire or be terminated in accordance with the terms of that Call Off Contract and, unless otherwise agreed in writing by both parties, that Call Off Contract may validly provide for it to extend beyond the expiry or termination of this Agreement, and the expiry or any termination of this Agreement shall not have the effect of terminating any Call Off Contract; and
- 4.9 In the case of conflict or ambiguity between any provision contained in the body of this Agreement and any provision contained in any Schedule or Call Off Contract, the provision in the [body of this Agreement] **OR** [that Schedule or Call Off Contract] shall take precedence.

5. Relevant Call Off Terms

Where the Supplier is to provide a type of IT Service listed below under a Call Off Contract, the set of Relevant Call Off Terms shown next to that IT Service below (and set out in a Schedule) shall apply to that Call Off Contract but none of the other sets of Relevant Call Off Terms shall apply to that Call Off Contract:

<u>Type of IT Service</u>	<u>Relevant Call Off Terms</u>
[Software Development and Licensing	Software Development and Licensing Terms]
[Software Support and Maintenance Services	Software Support and Maintenance Services Terms]
[IT Support Service Levels	IT Support Service Levels Terms]
[Hardware and Software Services	Hardware and Software Services Terms]

Each of those sets of Relevant Call Off Terms are set out in Schedules 2 of this Agreement.

6. [Data Protection]

- 6.1 All personal information that the Supplier may use will be collected, processed, and held in accordance with the provisions of EU Regulation 2016/679 General Data Protection Regulation ("GDPR") and the Company's rights under the GDPR.
- 6.2 For complete details of the Supplier's collection, processing, storage, and retention of personal data including, but not limited to, the purpose(s) for which personal data is used, the legal basis or bases for using it, details of the Company's rights and how to exercise them, and personal data sharing (where applicable), please refer to the Supplier's privacy notice

7. [Data Processing]

- 7.1 In this Clause 7 and in this Agreement, "personal data", "data subject", "data controller", "data processor", and "personal data breach" shall have the meaning defined in Article 4, EU Regulation 2016/679 General Data Protection Regulation ("GDPR").
- 7.2 [All personal data to be processed by the Supplier on behalf of the Company, subject to this Agreement, shall be processed in accordance with the terms of a data processing agreement into which the parties shall enter before any personal data is processed.]

OR

- 7.2 [Both parties shall comply with all applicable data protection requirements set out in the Data Protection Legislation. Neither this Clause 7 nor this Agreement shall relieve either party of any obligations set out in the Data Protection Legislation and shall not remove or replace any of those obligations.
- 7.3 For the purposes of the Data Protection Legislation and for this Clause 7 and this Agreement, the Supplier is the "Data Processor" and the Company is the "Data Controller", and "Data Protection Legislation" means 1) unless and until GDPR is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations, and secondary legislation (as amended from time to time), in the UK and subsequently 2) any legislation which succeeds the GDPR.
- 7.4 The type(s) of personal data, the scope, nature and purpose of the processing, and the duration of the processing in relation to each Call Off Contract shall be set out in an Annex.
- 7.5 The Data Controller shall ensure that it has in place all necessary consents and notices required to enable the lawful transfer of personal data to the Data Processor for the purposes described in this Agreement and any Call Off

Contract.

- 7.6 The Data Processor shall, with respect to any personal data processed by it in relation to its performance of any of its obligations under this Agreement and any Call Off Contract:
- 7.6.1 Process the personal data only on the written instructions of the Data Controller unless the Data Processor is otherwise required to process such personal data by law. The Data Processor shall promptly notify the Data Controller of such processing unless prohibited from doing so by law.
 - 7.6.2 Ensure that it has in place suitable technical and organisational measures (as approved by the Data Controller) to protect the personal data from unauthorised or unlawful processing, accidental loss, damage, or destruction. Such measures shall be proportionate to the potential harm resulting from such events, considering the current state of the art in technology and the cost of implementing those measures. Measures to be taken shall be agreed between the Data Controller and the Data Processor and, for each Call Off Contract set out in an Annex for that Call Off Contract.
 - 7.6.3 Ensure that any and all staff with access to the personal data (whether for processing purposes or otherwise) are contractually obliged to keep that personal data confidential; and
 - 7.6.4 Not transfer any personal data outside of the European Economic Area without the prior written consent of the Data Controller and only if the following conditions are satisfied:
 - 7.6.4.1 The Data Controller and/or the Data Processor has/have provided suitable safeguards for the transfer of personal data.
 - 7.6.4.2 Affected data subjects have enforceable rights and effective legal remedies.
 - 7.6.4.3 The Data Processor complies with its obligations under the Data Protection Legislation, providing an adequate level of protection to any and all personal data so transferred; and
 - 7.6.4.4 The Data Processor complies with all reasonable instructions given in advance by the Data Controller with respect to the processing of the personal data.
 - 7.6.5 Assist the Data Controller at the Data Controller's cost, in responding to any and all requests from data subjects in ensuring its compliance with the Data Protection Legislation with respect to security, breach notifications, impact assessments, and consultations with supervisory authorities or regulators (including, but not limited to, the Information Commissioner's Office).
 - 7.6.6 Notify the Data Controller without undue delay of a personal data breach.
 - 7.6.7 On the Data Controller's written instruction, delete (or otherwise dispose of) or return all personal data and any and all copies thereof to the Data Controller on termination of this Agreement or the relevant Call Off Contract unless it is required to retain any of the personal data by law; and
 - 7.6.8 Maintain complete and accurate records of all processing activities and technical and organisational measures implemented necessary to

demonstrate compliance with this Clause 7 and the Call Off Contracts and to allow for audits by the Data Controller and/or any party designated by the Data Controller.

7.7 [The Data Processor shall not sub-contract any of its obligations with respect to the processing of personal data under this Clause 7 and the Call Off Contracts]

OR

7.7 [The Data Processor shall not sub-contract any of its obligations to a sub-processor with respect to the processing of personal data under this Clause 7 and the Call Off Contracts without the prior written consent of the Data Controller (such consent not to be unreasonably withheld). In the event that the Data Processor appoints a sub-processor, the Data Processor shall:

7.7.1 Enter into a written agreement with the sub-processor, which shall impose upon the sub-processor the same obligations as are imposed upon the Data Processor by this Clause 7 and the Call Off Contracts and which shall permit both the Data Processor and the Data Controller to enforce those obligations; and

7.7.2 Ensure that the sub-processor complies fully with its obligations under that agreement and the Data Protection Legislation.]

7.8 Either party may, at any time, and on at least 30-day notice, alter the data protection provisions of this Agreement, replacing them with any applicable data processing clauses or similar terms that form part of an applicable certification scheme. Such terms shall apply when replaced by attachment to this Agreement.]

8. Force Majeure

8.1 Neither party to this Agreement shall be liable under, or be deemed to be in breach of, this Agreement for any failure or delay in performing their obligations where such failure or delay results from any Force Majeure Cause. For this purpose, a "Force Majeure Cause" is any because that is beyond the reasonable control of that party. Such causes include, but are not limited to power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the party in question.

8.2 In any Call Off Contract, "Force Majeure Cause" means a cause falling within the meaning of that expression in Sub-Clause 8.1 above.

9. Termination

9.1 The Company may terminate this Agreement by serving notice on the Supplier with effect from either the date of that notice or any subsequent date specified in that notice falling within [three] months of the date of that notice where:

9.1.1 the Supplier is in material breach of any provision of this Agreement and fails to remedy it within 14 days or that breach is not capable of remedy:
or

9.1.2 the Company terminates a Call Off Contract as a consequence of default by the Supplier under that Call Off Contract.

9.2 The Company shall have the right to terminate this Agreement at any time upon giving to the Supplier at least [three] months prior notice.

10. Relationship of the parties

10.1 Nothing in this Agreement shall constitute or be deemed to constitute a

partnership, joint venture, agency, or other fiduciary relationship between the parties other than the contractual relationship between the parties expressly provide for in this Agreement.

- 10.2 Neither party shall have any right or authority to do, and shall not do, any act, enter into any contract, make any representation, give any warranty, incur any liability, assume any obligation, whether express or implied, of any kind on behalf of the other party.

11. Assignment and Subcontracting

- 11.1 This Agreement is personal to the parties and, except with the written consent of the other party (such consent not to be unreasonably withheld) neither party may assign, mortgage, charge (otherwise than by floating charge) or sub-license to any third party all or any of its rights, licences or obligations under this Agreement or any Call Off Contract.
- 11.2 The Supplier may not sub-contract or otherwise delegate any of its obligations or all or any part/s of any IT Service, except with the written consent of the Company (such consent not to be unreasonably withheld)
- 11.3 Where, pursuant to Sub-Clause 11.2, the Supplier performs all or any of its obligations under this Agreement or all or any part/s of an IT Service through any third party, it shall remain liable for such performance and shall indemnify the Company against any loss or damage suffered by the Company arising from any act or omission of the third party.

12. Entire Agreement

- 12.1 Save as provided by the following provisions of this Clause 12, this Agreement supersedes all prior agreements, arrangements, and undertakings between the parties, and it constitutes the entire agreement between the parties relating to its subject matter.
- 12.2 This Agreement may not be modified except by an instrument in writing signed by the duly authorised representatives of the parties.
- 12.3 The obligations of the parties under any non-disclosure agreement pre-existing this Agreement shall remain in full force and effect in so far as there is no conflict between the same.
- 12.4 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 but nothing in the Agreement is intended to or will limit or exclude either party's liability for fraudulent misrepresentation made by the other.

13. Severance

The parties agree that, in the event that one or more of the provisions of this Agreement is found to be unlawful, invalid, or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of this Agreement. The remainder of this Agreement shall be valid and enforceable.

14. No Waiver

- 14.1 No failure or delay by either party in exercising any of its rights under this Agreement shall be deemed to be a waiver of that right, and no waiver by either party of a breach of any provision of this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.
- 14.2 A waiver of any term, provision or condition of this Agreement shall be

effective only if given in writing and signed by the waiving party and then only in the instance and for the purpose for which any waiver is given.

15. Third Party Rights

- 15.1 Nothing in this Agreement is intended to confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.
- 15.2 This Agreement shall continue and be binding on the transferee, successors and assigns of either party as required.

16. Notices

- 16.1 All notices under this Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.
- 16.2 Notices shall be deemed to have been duly given:
 - 16.2.1 when delivered, if delivered by courier or other messenger (including recorded delivery mail) during normal business hours of the recipient; or
 - 16.2.2 when sent, if transmitted by e-mail and a successful transmission report or return receipt is generated; or
 - 16.2.3 on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or
 - 16.2.4 on the tenth business day following mailing, if mailed by airmail, postage prepaid.in each case addressed to the most recent address or e-mail address notified to the other Party.
- 16.3 Service of any document for the purposes of any legal proceedings concerning or arising out of this Agreement shall be affected by either party by causing such document to be delivered to the other party at its registered or principal office, or to such other address as may be notified to one party by the other party in writing from time to time.

17. Law and Jurisdiction

- 17.1 This Agreement, and disputes or claims arising out of or in connection with it (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 17.2 Any dispute, controversy, proceedings or claim between the parties relating to this Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the [exclusive] jurisdiction of the courts of England and Wales.

SCHEDULE 1

Ordering Procedure

- 1.1 At any time during the duration of this Agreement, the Company may request the supply of an IT Service by sending to the Supplier a completed Order Form.
- 1.2 Submission of that Order Form shall be an offer by the Company to enter into a Call Off Contract for that IT Service.

- 1.3 Each Order Form must be in the form set out in the Appendix to this Schedule and that Order Form must have attached to it (as part of the terms of the order) all necessary Annexes (i.e., all those Annexes annexed to and forming part of the Relevant Call Off Terms for the Call Off Contract concerned) fully completed and attached to the Order Form before it is accepted by the Supplier.
- 1.4 The Order Form must be completed in such a way as to make clear the type and quantity and all other material details of the services requested, including the [price][rates][fees] in accordance with the Supplier's [current listed [price][rate][fees]] [valid current [price][rate][fees]] [quotation] [all-inclusive fixed price agreed], and in particular for each distinct element or set of services of services are requested, it must state the type of IT Service it is so that it is clear as to which one of the Schedules will apply to that element or set of services.
- 1.5 No document in any form other than an Order Form as prescribed above shall constitute a valid offer for the purposes of this Agreement.
- 1.6 Following receipt of a valid Order Form, the Supplier shall promptly and in any event within a reasonable period (which shall in any event not exceed a time limit of [seven (7)] days) acknowledge receipt of the Order Form and either: -
- 1.6.1 notify the Company that it declines to accept the offer constituted by the Order Form; or
- 1.6.2 notify the Company that it accepts that offer by signing and returning the Order Form.
- 1.7 If the Supplier:
- 1.7.1 notifies the Company that it declines to accept the offer constituted by the Order Form; or
- 1.7.2 the time-limit referred to in Clause 1.6 has expired.
- then the offer from the Company to the Supplier shall lapse.
- 1.8 The Supplier by accepting the offer constituted by an Order Form pursuant to Clause 1.6.2 above shall be deemed to accept that offer and to enter into a Call-Off Contract with the Company for the provision of the IT Service referred to in that Order. The Call Off Contract shall be deemed to come into existence on the date the Supplier returns to the Company the notification of that acceptance.
- 1.9 The Supplier must not commence any IT Service without having entered into a Call Off Contract for that IT Service.

APPENDIX TO ORDERING PROCEDURE

BEST-YOU ORDER FORM

Customer:

Contact:

Address:

Phone:

E-Mail:

Name and briefly describe services

_____ (the "Service(s)").

Year 1

Best -You CRM Implementation for up to 20 £38,000
coaches

Includes set up of all modules, 1 Service
Provider Integration, population tracking
front end, standard reports, training, yr1
license fee

Additional Service Provider Set-up Non- £5,000 - £8,000
integrated service providers and split
assessments, price dependent on
complexity

Following Years

Annual License Fee £12,500
Hosting, maintenance, support

All prices are subject to VAT at the prevailing rate.

Service Fees: payable in advance, subject to terms and conditions.

Initial Service Term: 1 Year(s).

Implementation Services: Company will use commercially reasonable efforts to provide Customer the services described in the Service Definition Document and Pricing Schedule, and Customer shall pay Company the Implementation Fee within 30 days of invoice date.

SAAS SERVICES AGREEMENT

This SaaS Services Agreement ("Agreement") is entered into on _____ (the "Effective Date") between ICE Creates with a place of business at 2 Monks Ferry, Birkenhead, Wirral, CH41 5LH, United Kingdom, and the Customer listed above ("Customer"). This Agreement

includes and incorporates the above Order Form and contains, among other things, warranty disclaimers, liability limitations and use limitations. There shall be no force or effect to any different terms of any related purchase order or similar form even if signed by the parties after the date hereof.

[Company]: [Customer]:

By:

Name:

Title:

APPENDIX TO ORDERING PROCEDURE

Stop for Life - BEST-YOU ORDER FORM

Customer:

Contact:

Address:

Phone:

E-Mail:

Name and briefly describe services

(the "Service(s)").

Year 1

Stop for Life – Stop smoking Implementation £18,000
in one local geography

Per quit options
available to
include
coaching,
access to AI
and NRT or
vaping support

Additional Service Provider Set-up, price £5,000 - £8,000
dependent on complexity

Following Years

Annual License Fee based on number of quit £POA
outcomes wanted
Hosting, maintenance, support

All prices are subject to VAT at the prevailing rate.

Service Fees: payable in advance, subject to terms and conditions.

Initial Service Term: 1 Year(s).

Implementation Services: Company will use commercially reasonable efforts to provide Customer the services described in the Service Definition Document and Pricing Schedule, and Customer shall pay Company the Implementation Fee within 30 days of invoice date.

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includes and incorporates the above Order Form and contains, among other things, warranty disclaimers, liability limitations and use limitations. There shall be no force or effect to any different terms of any related purchase order or similar form even if signed by the parties after the date hereof.

[Company]: [Customer]:

By:

Name:

Title:

SIGNED on the above date:

By <<Name and Title of person signing for Company>>

for and on behalf of <<Insert name of Company>>

Authorised Signature

AND

SIGNED on the above date

By <<Name and Title of person signing for Supplier>>

for and on behalf of <<Insert name of Supplier>>

Authorised Signature