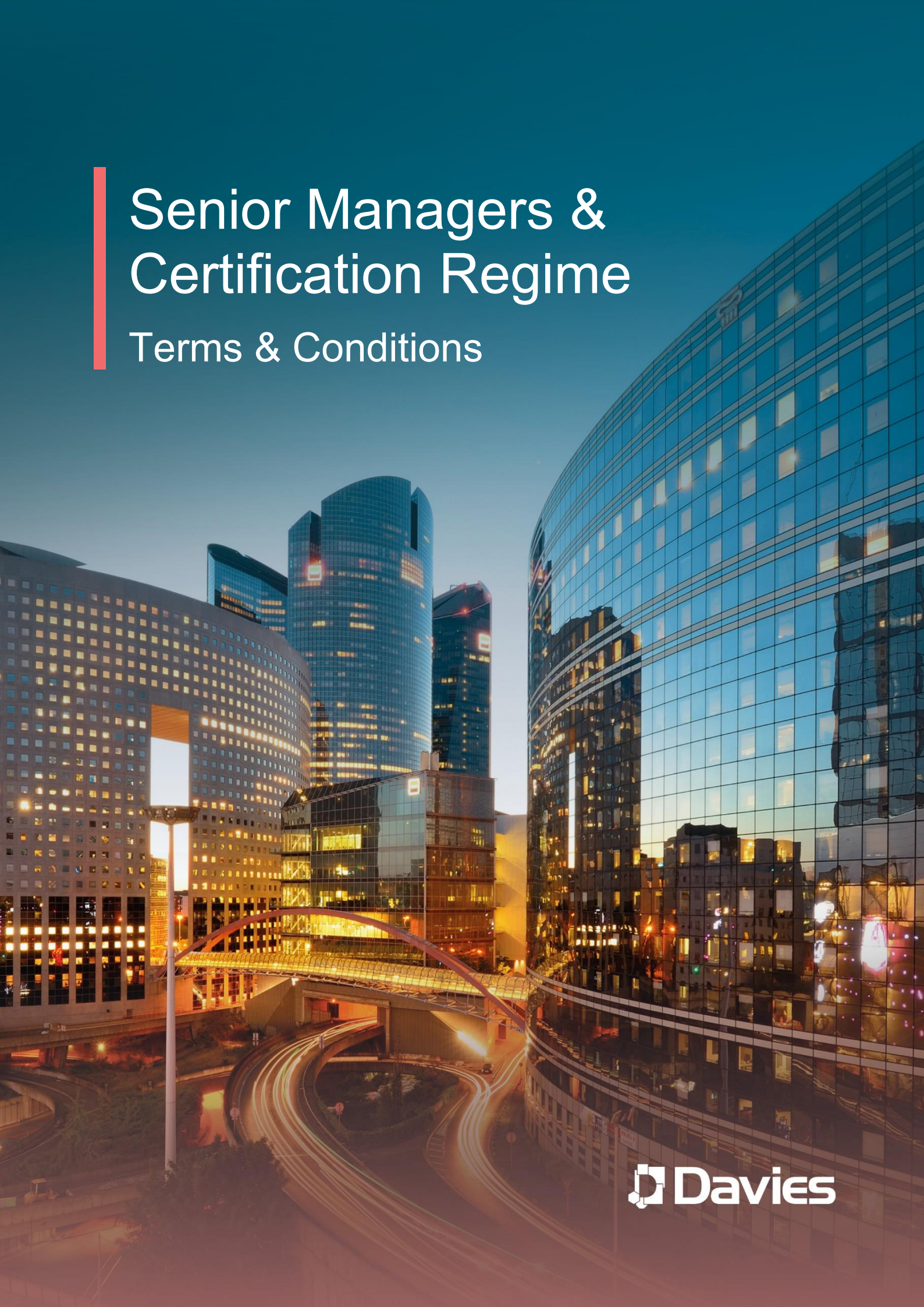




Senior Managers & Certification Regime

Terms & Conditions

DATED _____ [●]

(1) WORKSMART LIMITED

and

(2) [●]

**Agreement for the supply of
Software and Services**

THIS AGREEMENT is made on

BETWEEN

- (1) **WORKSMART LIMITED** (registered number 6329038) a company incorporated in England and Wales whose registered office is at 5th Floor 20 Gracechurch Street, London, United Kingdom, EC3V 0BG (“Worksmart”); and
- (2) [●] (registered number [●]) a company incorporated in [●] whose registered office is at [●] (the “Customer”).

WHEREAS

- (A) Worksmart is the owner and provider of software, hosting services, technical support and other related consulting services.
- (B) The Customer wishes to be provided with software, technical support and other services as agreed in Statement(s) of Work.
- (C) The parties have agreed that the terms and conditions set out in this Agreement will apply to any software, technical support and hosting or consulting services which are provided by Worksmart under any Statement(s) of Work.

IT IS AGREED AS FOLLOWS

1 INTERPRETATION

- 1.1 In this Agreement (including the Schedules and any Statement of Work) the following expressions shall have the following meanings:

Acceptance Tests	the tests to be performed on the Software as set out in a Statement of Work;
Additional Services	the provision of any additional services requested by the Customer and provided by Worksmart in accordance with clause 3.3;
Charges	the sums payable by the Customer for the Software and/or Services as set out in the relevant Statement of Work;
Confidential Information	of a party shall mean the terms and conditions of this Agreement and all information, in whatever form, disclosed by, made available by, or otherwise emanating from that party in connection with this

		Agreement or the services to be performed pursuant to it but shall not include information which: At the time of disclosure is in the public domain; After disclosure becomes part of the public domain otherwise than by breach by a party of the provisions of this Agreement; Was already in the lawful possession of the receiving party at the time of disclosure; Was received by the receiving party after disclosure from a third party who was not required to hold it in confidence. The Confidential Information of Worksmart shall include the Software (including the source code), its look and feel, information relating to it and the Services (including the results of any performance tests) and any information derived from any of them The Confidential Information of the Customer shall at all times include the Customer Data;
Customer Data		the data inputted by the Permitted Users into the Software in the course of using the Services;
Customer's Location		the Customer's premises as set out in the relevant Statement of Work;
Data Protection Legislation		the Data Protection Act 2018, the General Data Protection Regulation (EU 2016/679) ("GDPR") as it forms part of the laws of England and Wales by virtue of section 3 of the European Union (withdrawal) Act 2018 and the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019/419 and any subordinate or implementing legislation and any other applicable laws or legally binding regulations relating to data protection in England and Wales and which are applicable to the Services provided under this Agreement;
Documentation		the operating manual, user instruction manuals, technical literature, all other related materials and any other documentation to be provided by

Effective Date	Worksmart and identified in a Statement of Work, in human-readable and/or machine-readable forms; the date of last signature of this Agreement or the day on which the Worksmart project team is engaged to start the system implementation process, whichever is sooner;
Initial Period	has the meaning given to it in the Statement of Work;
Intellectual Rights	Property all intellectual and industrial property rights, howsoever arising, including patents, rights in registered and unregistered trade marks (including domain names), rights in registered and unregistered designs, utility models, trade or business names, Confidential Information, know-how, database rights, topography rights, passing-off rights, and copyright (including moral rights and in computer software), performer protection rights or other industrial, intellectual or commercial rights (including rights in any invention, know how, rights in databases, inventions, discovery or process), and applications for registration of any of the foregoing, and the right to apply therefore, in each case in any part of the world;
Licence	has the meaning given in clause 4.3;
Permitted Users	the permitted users of the Software, as set out in the relevant Statement of Work;
RPI	the Retail Price Index as published by the UK Office for National Statistics;
Services	the services to be provided to the Customer as set out in the relevant Statement of Work which may include configuration, customisation, hosting, consultancy, training and/or technical support;
Software	the software licensed to the Customer as set out in the relevant Statement of Work;
Source Code	all computer program code which when compiled or assembled will create a fully functional version of the Software;

Specification	each specification for the Software as set out in the relevant Statement of Work;
Statement of Work	each agreement for the supply of Software and/or Services entered into by the parties as described in clause 2 of this Agreement and materially in the form set out in Schedule 2;
Use	the restricted use of the Software by the Permitted Users in object code form by storing, accessing, running the Software to process instructions in the Software as agreed between the parties and detailed in the Documentation;
Warranty Period	the period specified in a Statement of Work;
Writing	includes e-mail, facsimile transmission and comparable means of communication;
Year	a period of twelve (12) months from the date of the relevant Statement of Work (or any other specified date in the Statement of Work) and each successive twelve (12) month period.

- 1.2 References to regulations, statutes or other statutory provisions shall be construed to include references to those regulations, statutes or provisions as amended, re-enacted or modified from time to time and shall include any subordinate legislation under the relevant statute or statutory provision.
- 1.3 The headings in this Agreement are for ease of reference only and shall not in any way affect their construction or interpretation.
- 1.4 Words denoting the singular include the plural and vice versa; words denoting any one gender include all genders and vice versa, and reference to a person shall include an individual, partnership, body corporate and unincorporated association.
- 1.5 References to any party shall include its personal representative's lawful successor in title and permitted assigns.
- 1.6 The words and phrases "other", "including" and "in particular" shall not limit the generality of any preceding words or be construed as being limited to the same class as the preceding words where a wider construction is possible.

2 **TERM AND STATEMENT OF WORKS**

- 2.1 This Agreement is effective from the Effective Date and shall continue until terminated in accordance with the provisions of this Agreement.

- 2.2 Each Statement of Work shall continue for the Initial Period and on expiry of such period shall automatically renew for successive periods of 12 months (each a “Renewal Period”) unless:
 - 2.2.1 either party notifies the other party of termination, in writing, at least 3 months prior to the end of the Initial Period or any Renewal Period, in which case the Statement of Work shall terminate upon the expiry of the applicable Initial Period or Renewal Period; or
 - 2.2.2 otherwise terminated in accordance with the provisions of this Agreement.
- 2.3 Each Statement of Work sets out the Software, Documentation, and Services being the specific description of the work and services to be supplied and/or performed by Worksmart and the Charges to be paid. If Worksmart is providing hosting as part of the Services, then the additional provisions in Schedule 1 shall apply.
- 2.4 For any further Software and Services the parties shall agree further Statements of Work in writing. All Statements of Work shall automatically be made on the terms set out in this Agreement together with any specifically agreed terms set out in the relevant Statement of Work.
- 2.5 The parties agree and acknowledge that no other terms (including any terms and conditions of the Customer) shall form part of this Agreement or any Statement of Work.
- 2.6 If there is any conflict or inconsistency between any provision of this Agreement and any Statement of Work the terms of the relevant Statement of Work shall prevail.
- 2.7 All dates and timescales given or agreed to by Worksmart in respect of a Statement of Work shall be estimates only and time is not of the essence. Worksmart will make reasonable commercial endeavours to meet all dates and timescales given or agreed to including, where relevant, any service level agreement in any Statement of Work. Worksmart shall have no liability for any delay in delivery, installation or performance unless this is specifically agreed in writing in the relevant Statement of Work.

3 CHARGES

- 3.1 The Customer agrees to pay the Charges for the Software, Documentation and Services in accordance with the fees and payment schedule set out in the relevant Statement of Work, for the periods specified in such Statement of Work. If the Customer requires its purchase order number to be quoted on Worksmart’s invoices, then it shall issue such purchase order in good time for Worksmart to issue its invoices in accordance with the Statement of Work. If the Customer fails to do so

then, in addition to any other rights and remedies available, Worksmart may charge default interest or suspend its Services in accordance with clause 3.6 below.

- 3.2 Invoices for any annual Charges in respect of the Software and/or Services shall be issued by Worksmart and payable by the Customer annually in advance, unless other terms are specified in the Statement of Work.
- 3.3 Any services in addition to the Services that the Customer may require pursuant to a Statement of Work shall be charged by Worksmart on a time and material basis in accordance with Worksmart's rates as set out in the Statement of Work. Invoices for such Services shall be issued by Worksmart and payable by the Customer monthly in arrears.
- 3.4 Unless agreed in advance by the parties, all rates detailed in the Statement of Work shall be exclusive of all reasonable costs for travel, communication and any other additional cost or expense that can be reasonably anticipated within the scope of the Services which shall be invoiced by Worksmart monthly in arrears.
- 3.5 All invoices shall be paid by the Customer in cleared funds no later than thirty (30) days from the date of the invoice.
- 3.6 If the Customer fails to (i) provide its purchase order in accordance with clause 3.1 or (ii) make any invoiced payment when due under the terms of this Agreement or any Statement of Work, without affecting any other rights or remedies which Worksmart may have, Worksmart shall be entitled to:
 - 3.6.1 deduct outstanding sums from any sums owed by Worksmart to the Customer under this Agreement or any Statement of Work;
 - 3.6.2 charge interest on the overdue amount, at a rate of 4% above the Bank of England base rate which shall accrue from day to day (both before and after any judgment) from the due date until payment in full is received by Worksmart;
 - 3.6.3 suspend the supply and/or access to the Software, Documentation and/or Services to the Customer where any amounts are overdue until all such amounts have been paid; and/or
 - 3.6.4 demand the return of any Software installed or delivered.
- 3.7 **Error! AutoText entry not defined.** The Customer may not for any reason withhold, make deduction from, set off against or make abatement of any payment due to Worksmart as set out in the Statement of Work.
- 3.8 At the expiry of each Year Worksmart shall be entitled, but not obliged, to increase the Charges, as set out in the Statement of Work, once annually in line with RPI, or other such official measure of inflation as may replace this from time to time.
- 3.9 After the expiry of any applicable Initial Period, in addition to the increase pursuant to clause 3.8 above, Worksmart may propose an additional increase to the relevant

Charges to reflect its increased costs in providing a particular service. Such an increase may be proposed once annually and must be notified to the Customer at least 3 months prior to the end of the applicable Initial Period or any Renewal Period and shall apply automatically to the Charges for the following Year unless the Customer serves notice under clause 2.2 above.

4 SOFTWARE AND LICENCE

- 4.1 The Software will have been subject to the Worksmart testing processes and sign-off. In addition, the Customer may at its own expense conduct any agreed Acceptance Tests and upon completion of such tests shall sign an acceptance certificate certifying that the tests have been passed and that the Software and Services meet the agreed Specification (“Acceptance”). Any use of the applicable Software or Services by the Customer in a live environment shall constitute Acceptance irrespective of whether a certificate is signed and any failure to sign such certificate shall not relieve the Customer of any obligation to pay the Charges.
- 4.2 Worksmart shall licence the Software to the Customer subject to the terms of this Agreement and in accordance with the relevant Statement of Work. The Charges payable in respect of the Software shall be as set out in the relevant Statement of Work
- 4.3 Subject to the payment of the Charges and the terms and conditions of this Agreement, the Customer shall have a non-exclusive, non-transferable, non-sublicensable licence to Use the Software in the United Kingdom and any other countries referred to in the applicable Statement of Work for those persons or groups described as Permitted Users in the Statement of Work (“Licence”). The Customer acknowledges that the Software and the Services have been designed to meet UK financial regulatory requirements and the Data Protection Legislation only [and that all the Customer Data uploaded to the system created by the Software is hosted by Worksmart in the UK]. The Customer acknowledges that the Software has not been designed to meet the Customer’s individual requirements and that it is the Customer’s responsibility to ensure that the Software functionality and data fields meet its requirements. The Customer therefore acknowledges that Worksmart gives no warranty or undertaking regarding the fitness for purpose of the Software or its Services for (i) use outside the UK or (ii) for personal data subject to legislation other than the Data Protection Legislation or (iii) for meeting any heightened cybersecurity requirements (eg the NIS Regulations) applicable specifically to the Customer because of its particular industry sector or the type of data added by the Permitted Users to free format areas in the Software Services or in document attachments.

- 4.4 The duration of each Licence and the Charges payable shall be as set out in the relevant Statement of Work.
- 4.5 The Customer shall not Use the Software other than in accordance with the terms of this Agreement and the relevant Statement of Work and Use of the Software shall not include Use by or for the benefit of any person other than the Permitted Users.
- 4.6 Except to the extent that copying cannot be lawfully prevented and as may be reasonably required for back up purposes only, the Software will not be copied, in whole or in part, without Worksmart's prior written consent and the Customer shall reproduce on any copies Worksmart's copyright and trade mark notices.
- 4.7 Except to the extent such actions cannot be lawfully prevented, the Customer shall not (nor permit any third party to) disassemble, decompile, modify, adapt, reverse engineer, merge or combine with any other software or make error corrections to the Software, in whole or in part, or in any way expose the source code, instruction sequences, internal logic, protocols, or algorithms of the Software.
- 4.8 The Customer shall effect and maintain in accordance with good industry standards sufficient security measures to safeguard the Software from access or use by any unauthorised persons not permitted to access or use the Software under the terms of this Agreement or the relevant Statement of Work.
- 4.9 The Customer has no right to sub-licence the use of any Software, or to assign the benefit or burden of any licence granted to it under this Agreement or any Statement of Work, in whole or in part, or to allow the Software to become the subject of any charge, lien or encumbrance without the prior written consent of Worksmart.
- 4.10 The Customer acknowledges it has no right to have any access to the Software in source code form, or in unlocked coding of any kind. The Customer agrees that it must not attempt in any way to remove or circumvent any security devices present within the Software which are intended to protect the facility and integrity of the Software and the Customer agrees not to use any systems, processes or software in connection with the Software which are intended to circumvent such protections.
- 4.11 For Software hosted on the Customer's premises, risk in the Software shall pass to the Customer upon installation.

5 SERVICES

- 5.1 Worksmart shall provide the Services to the Customer in accordance with the terms of this Agreement and the relevant Statement of Work and shall at all times perform the Services with reasonable care and skill in accordance with good industry standards.

- 5.2 The periods for the provision of the Services and the Charges payable shall be as set out in the relevant Statement of Work.
- 5.3 If the Services are not performed in accordance with the terms of this Agreement and the relevant Statement of Work, the Customer shall notify Worksmart in writing of such defect or failure within 30 days of becoming aware of it and Worksmart shall at its cost and discretion carry out such additional work and/or take such remedial action as may be necessary to correct such failure or defect. If such defect is so corrected then such remedial action shall be in full and final settlement of the Customer's rights and remedies in respect of such breach.
- 5.4 If the Customer wishes to reschedule any Services for which a date of delivery or performance has been agreed with Worksmart, then the change control procedure in clause 15 below shall apply. If any Services cannot be carried out on the agreed date due to the Customer's failure to comply with the terms of this Agreement or the applicable Statement of Works a reasonable cancellation charge shall become payable.
- 5.5 Where Worksmart offers updates or new releases to the Software and the Customer agrees to purchase such updates and new releases, the parties shall agree a new applicable Statement of Work. If any third party software upon which the Software Services is reliant, is withdrawn, becomes unsupported or is updated by its supplier and an update to the Software is consequently required, then Worksmart shall notify the Customer as soon as reasonably practical and the Customer shall:
- 5.5.1 agree to update the Software at a cost to be agreed with Worksmart, both parties acting reasonably. Worksmart agrees that it shall not charge for Worksmart's development of such update and shall not increase the Licence, Hosting or Support Charges as a consequence of such update and that its costs chargeable to the Customer for the update shall be limited to services required to implement the new product version; or
 - 5.5.2 refuse such update in which case the Customer accepts any consequential deterioration in service or security to the Software and Services.

6 CUSTOMER RESPONSIBILITIES

- 6.1 The Customer shall:
- 6.1.1 promptly make available, free of charge, such documentation, information, data and computer facilities (including but not limited to data preparation facilities, storage and computer consumables) as may reasonably be

required by Worksmart in the fulfilment of its obligations under this Agreement and each Statement of Work;

- 6.1.2 appoint a representative with responsibility and authority for all matters relating to this Agreement and each Statement of Work; this representative may be identified in the Statement of Work or made known during the term of the Statement of Work;
- 6.1.3 not allow any Permitted User's log on credentials to be used by more than one individual unless a Permitted User licence has been reassigned permanently to another individual Permitted User in which case the prior Permitted User's account shall be de-activated and they shall no longer have any right to access the Software Services;
- 6.1.4 maintain industry standard anti-virus and appropriate security measures to safeguard the Software from viruses and access or use by unauthorised persons and ensure that no copyright or other proprietary notices on the Software are removed or obscured and that such notices are reproduced on the same;
- 6.1.5 ensure that no additional logo, trademark, or other notice of whatever nature is included on or in the Software (or any part thereof) without the express prior written consent of Worksmart;
- 6.1.6 ensure its staff are adequately trained in the use of the Software and only such trained staff are permitted to operate the same and place support calls;
- 6.1.7 remain responsible for all actions and inactions of any third party provider directly in its control or with whom it has a contractual relationship and with whom Worksmart will be or is reliant upon to fulfil its obligations under this Agreement or a relevant Statement of Work;
- 6.1.8 co-operate with Worksmart in relation to the performance of Worksmart's obligations under the Agreement including, if reasonably requested by Worksmart, providing free of charge appropriately qualified and experienced Customer personnel familiar with the Customer's computer systems, equipment and operations;
- 6.1.9 inform Worksmart immediately if there is any change in use of the Software;
- 6.1.10 provide Worksmart with a right to remotely run a script to confirm Permitted User numbers provided that it notifies the Customer before doing so. Worksmart confirms that this would not require access to the Customer's premises or computer systems;
- 6.1.11 provide Worksmart's staff with reasonable access to its premises and its computer systems where necessary for the performance of the Agreement;

6.1.12 not and shall ensure that Permitted Users shall not upload, store, distribute or transmit material during the course of its or their use of the Services that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;
- (d) promotes unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (f) is otherwise illegal or causes damage or injury to any person or property;

and Worksmart reserves the right, without liability or prejudice to its other rights, to remove or require the Customer to remove such material or disable the Customer's access to any material that breaches the provisions of this clause.

6.1.13 not:

- (a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Agreement:
- (b) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or
- (c) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
- (d) access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or
- (e) use the Services and/or Documentation to provide services to third parties;
- (f) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Permitted Users, or
- (g) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation; or

6.1.14 ensure that no 'personal data' or otherwise sensitive data (including, without limitation, credit card details) is added to free format text capture

areas of the Software or is contained in any documents attached to the system generated by the Software and Worksmart accepts no liability and gives no undertakings regarding the suitability or operation of the Software and in particular its search functions with regards to information included in such free format text capture areas and document attachments; and

6.1.15 be responsible for the back-up of data provided to Worksmart for testing and development purposes and if the Software is hosted on the Customer's premises, be responsible for the back-up of its own data at all times.

6.2 Without prejudice to any duty of the Customer at common law, Worksmart shall be entitled to require the Customer to take such steps as Worksmart may reasonably require to mitigate or reduce any losses or claims that may arise in relation to this Agreement and/or any Statement of Work.

6.3 Worksmart's ability to deliver the Software and/or Services will depend upon the Customer's full and timely co-operation. The Customer accepts that if it does not provide Worksmart with the necessary access, cooperation and information required under this Agreement or a Statement of Work then Worksmart will not be responsible for any loss suffered by the Customer and Worksmart's deadlines will automatically be extended to account for any such delay. The Customer accepts that the very nature of the Services may necessitate disruption to their staff and business processes in order to accommodate the implementation.

7 WARRANTIES

7.1 Provided all Charges have been paid, Worksmart warrants that for the duration of the applicable Warranty Period, the relevant Software will in all material respects operate in accordance with the relevant Specification when used in accordance with the terms of this Agreement and each Statement of Work. For the avoidance of doubt Worksmart does not warrant that the operation of the Software will be uninterrupted or error free.

7.2 If within the applicable Warranty Period, the Customer notifies Worksmart of any defect or fault in the relevant Software in consequence of which it fails to conform in a material way with the relevant Specification, and such defect or fault does not result from any of the events set out in clauses 7.4 and 7.5 below, Worksmart shall as soon as reasonably practicable and at its option repair or replace the relevant Software (or any defective part thereof) at its own cost.

7.3 If Worksmart complies with the obligations set out in clause 7.2 above, Worksmart shall have no further liability to the Customer for such defect or fault howsoever

arising under the warranties set out in this Agreement, the relevant Statement of Work or otherwise.

7.4 The warranty given under this clause 7 does not cover and Worksmart shall have no liability for defects or failures in the Software caused by:

- 7.4.1 operator error;
- 7.4.2 failure to use the Software in accordance with Worksmart's instructions;
- 7.4.3 third party software, hardware or data not provided or approved by Worksmart;
- 7.4.4 use of the Software outside the terms of this Agreement; or
- 7.4.5 any modification or alteration of or attachment to the Software or removal of the same, other than by Worksmart.

7.5 In addition to the provisions of clause 7.4 above Worksmart shall have no liability for or be responsible for:

- 7.5.1 diagnosis and/or rectification of problems not associated with Software;
- 7.5.2 support of the Customer's computer systems, other software and hardware, accessories, attachments, machines, systems or devices not supplied by Worksmart;
- 7.5.3 support rendered more difficult because of any changes, alterations, additions, modifications or variations to the Software (by any person other than at Worksmart's authority or consent) or the Customer's System or operating environment.

Worksmart shall have the right to charge the Customer on a time and material basis at the rates specified in the Statement of Work in respect of any repairs or replacements carried out or claims made by the Customer which are shown to be caused by any of the events described by clauses 7.4 and 7.5 above.

7.6 All statutory or implied warranties are, to the fullest extent permitted by law, excluded by the Agreement.

8 DATA PROTECTION

8.1 The parties shall, in the performance of this Agreement, comply at all times with the Data Protection Legislation.

8.2 The Parties acknowledge and agree that if the Customer is hosting the applicable Software on its premises then Worksmart shall receive no "personal data" as defined in the Data Protection Legislation of the Customer or its customers and the Customer agrees not to send any such data to Worksmart and it shall ensure that its personnel shall anonymise any screen shots or similar information sent to Worksmart in the course of requesting support and maintenance from Worksmart.

- 8.3 If Worksmart is hosting the applicable Software, then the provisions of Schedule 1 shall apply. The Customer shall have sole responsibility for the legality, reliability, integrity, accuracy, comprehensiveness and quality of all Customer Data. The Customer warrants that in respect of any personal data that it or a Group Company or a Permitted User provides to Worksmart, it has complied with all Data Protection Legislation applicable to it as a 'controller' of such personal data (as such term is defined in the Data Protection Legislation), and that it has all necessary consents and notices in place and has carried out all required data protection impact assessments to enable lawful transfer of such data to Worksmart for the duration and purposes of this Agreement so that Worksmart may lawfully process the personal data in accordance with this Agreement on the Customer's behalf. The Customer shall indemnify Worksmart against all direct costs, claims, demands, liabilities and reasonable expenses of whatever nature incurred or suffered by Worksmart arising out of or in connection with any breach by the Customer of the warranty in this clause.

9 INTELLECTUAL PROPERTY

- 9.1 The Customer acknowledges that all Intellectual Property Rights (including any new Intellectual Property Rights) arising out of or in connection with the Software, Documentation and/or Services including any other items, materials or documentation supplied by Worksmart belongs at all times to Worksmart or Worksmart's licensors.
- 9.2 Nothing in this Agreement shall transfer to the Customer any Intellectual Property Rights in or arising from the Software, Documentation and/or Services or any other items, materials or documentation, which shall remain vested in Worksmart or Worksmart's licensors, and no rights to use any such Intellectual Property Rights are granted, except as expressly stated in this Agreement or the relevant Statement of Work and Licence. If, notwithstanding this, any Intellectual Property Rights in or arising from the Software, Documentation and/or Services including or any other items, materials or documentation are acquired by the Customer (including any new Intellectual Property Rights), the Customer hereby agrees to do all such things and sign all such deeds as Worksmart may reasonably require in respect of the assignment of all such Intellectual Property Rights to Worksmart or Worksmart's licensors as may be appropriate.
- 9.3 Subject to clause 9.5, Worksmart undertakes at its own expense to defend the Customer or, at its option, settle any claim or action brought against the Customer alleging that the possession, use, development, modification or maintenance of the

Software (or any part thereof) in accordance with the terms of this Agreement infringes the UK Intellectual Property Rights of a third party (“Infringement Claim”) and shall indemnify the Customer for any amounts awarded against the Customer in final judgement or settlement of such Infringement Claim and any reasonable costs (including legal fees) and expenses incurred or suffered by the Customer as a result of or in connection with any such Infringement Claim .

- 9.4 If an Infringement Claim is alleged or threatened against Worksmart or the Customer, or if Worksmart believes that the Software or any part thereof may infringe the UK Intellectual Property Rights of any third party, Worksmart may, at its sole option, (i) procure such licence, authorisation or consent as is necessary to enable continued use by the Customer of the Software; (ii) modify or replace the same as necessary to avoid infringement without any material adverse effect to the functionality of the Software; (iii) suspend the provision of the Services under the Agreement; or (iii) terminate this Agreement and/or the affected Statement of Work.
- 9.5 Subject to clause 9.6, Worksmart shall only be liable under the terms of this Agreement or any Statement of Work for an Infringement Claim or alleged Infringement Claim if (i) the Customer notifies Worksmart immediately of any infringement or alleged infringement of which it has notice; (ii) the Customer makes no admission as to liability or agrees any settlement of such claim without the prior written consent of Worksmart; (iii) the Customer allows Worksmart (or a relevant third party supplier), at Worksmart’s expense, the sole conduct and/or to settle all negotiations and litigation arising from any Infringement Claim or action relating to the alleged Infringement Claim; and (iv) the Customer, at Worksmart’s expense, gives Worksmart (or a relevant third party supplier) all such reasonable assistance as may be requested in such settlement or negotiation.
- 9.6 Worksmart shall have no liability for any Infringement Claim or alleged Infringement Claim where such claim (i) arises from possession, use, development, modification, combination, operation of the Software (or part thereof) by the Customer other than in accordance with the terms of this Agreement or the relevant Statement of Work or in combination with equipment, data or programs not supplied by Worksmart; (ii) use of other than a current unaltered release of the Software; (iii) failure by the Customer to take any reasonable corrective action directed by Worksmart; or (iv) is based upon any instruction or specification or any other thing provided by the Customer and incorporated into the Software.

10 TERMINATION

- 10.1 If a party is in material breach of its obligations under this Agreement or any Statement of Work which is incapable of remedy or if capable of remedy, fails to remedy the same within thirty (30) working days' written notice to do so by the other party, the other party may, without prejudice to its other rights and remedies and at its option terminate the affected Statement of Work as a whole, or any affected element of the Software or Services provided under it.
- 10.2 Either party can without prejudice to its other rights arising hereunder, terminate this Agreement and all or any Statement of Works forthwith on written notice to the other party if the other party:
- 10.2.1 is unable to pay its debts or becomes insolvent or an order is made or a resolution passed for the administration, winding-up or dissolution (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an administrative or other receiver, manager, trustee, liquidator, administrator, or similar officer is appointed over all or any substantial part of its assets or it enters into or proposes any composition or arrangement with its creditors generally or anything analogous to the foregoing occurs in any applicable jurisdiction; or
 - 10.2.2 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 10.2.1.
- 10.3 In the event the Customer fails to pay any sums due under and in accordance with the terms of this Agreement and each Statement of Work, without prejudice to its other rights and remedies, Worksmart may, terminate at its option:
- 10.3.1 the Agreement;
 - 10.3.2 each Statement of Work that Worksmart has entered into with the Customer; or
 - 10.3.3 the relevant Statement of Work only.

11 CONSEQUENCES OF TERMINATION

- 11.1 If for any reason this Agreement or an individual Statement of Work ends, the terms of this Agreement shall continue to apply to all Statement of Works still in force.
- 11.2 The termination of this Agreement or any Statement of Work in whole or in part for whatever reason shall not affect any provision of this Agreement or any Statement of Work which is expressed, or is by its nature, implied to continue, survive or come into force in the event of such termination.

- 11.3 Upon termination of this Agreement or any Statement of Work in whole or in part for whatever reason:
- 11.3.1 the parties shall (without prejudice to any other rights and remedies) promptly pay to each other all sums which are due or outstanding in respect of part of the Agreement or Statement of Work that has been terminated; and
 - 11.3.2 the Customer shall cease all use of the Software and shall, at Worksmart's request, promptly return or destroy any copies of the Documentation subject to such termination. For the avoidance of doubt, the Customer may keep and continue to use any hard or soft copies of reports that it generated using the Software prior to termination and that it has saved outside the Software's environment.
- 11.4 Worksmart shall promptly delete or, at the Customer's option, return to the Customer all the Customer Data in soft copy format. If the Customer requests a particular format for the data then the Customer shall pay Worksmart's reasonable charges for such formatting service, such charges to be agreed in advance.

12 **LIABILITY**

- 12.1 Each party's liability to the other for (i) the injury to or death of any person caused by any negligent act or omission of that party, its employees, agents or contractors, (ii) fraud or fraudulent misrepresentation (iii) a breach arising under clauses 4.5 and 4.8; and (iv) any other matter for which, by law, liability cannot be limited, shall not be limited.
- 12.2 Subject to clause 12.1, neither Party shall have liability, however arising, out of or in connection with this Agreement, any Statement of Work, the Software or Services for any loss or damage which may be suffered by the other party (or any person claiming under or through the other party) whether the same are suffered directly or indirectly or are immediate or consequential, which fall within the following categories:
- 12.2.1 indirect, consequential, or special damage, even though Worksmart or the Customer, as appropriate, were aware of the circumstances in which the damage could arise;
 - 12.2.2 loss of profits (save that this shall not exclude or limit any liability of the Customer to pay the Charges or damages awarded in lieu of the Charges);
 - 12.2.3 loss of anticipated savings;
 - 12.2.4 loss of business opportunity; or
 - 12.2.5 loss of goodwill.

- 12.3 Subject to the further limitations in this Agreement or any Statement of Work, the total aggregate liability of Worksmart for any claims arising out of or in connection with a Statement of Work and the Software or Services supplied under it, however arising, in any Year shall in all circumstances be limited to 125% of the amount paid to Worksmart for the Services under the applicable Statement of Work during the 12 months preceding the date on which the claim arose.
- 12.4 Subject to the further limitations in this Agreement or any Statement of Work, the total aggregate liability of Worksmart in respect of any breach of clause 9 (Intellectual Property), clause 14 (confidentiality) or clause 8 (data protection) shall in all circumstances be limited to 200% of the amount paid to Worksmart for the Services during the 12 months preceding the date on which the claim arose.
- 12.5 The term “however arising” when used or referred to in this Agreement or any Statement of Work shall cover all causes and actions giving rise to liability of either Party arising out of or in connection with this Agreement, any Statement of Work, the Software or Services (i) whether arising by reason of any misrepresentation (whether made prior to and/or in this Agreement or prior to and/or in any Statement of Work), negligence, breach of statutory duty, other tort, repudiation, renunciation or other breach of contract, restitution or otherwise; (ii) whether arising under any indemnity; (iii) whether caused by any total or partial failure or delay in supply of the Software or Services or by any defect in the same or other goods or materials; and (iv) whether deliberate (but not with malicious intent) or otherwise, however fundamental the result.

13 NON POACHING OF STAFF

- 13.1 Each party agrees that for the duration of this Agreement (including any Statement of Works) and for a period of six month following termination it shall not make a solicited approach, whether directly or indirectly, to any employee or contractor of the other party, who has been engaged in the performance of this Agreement or any Statement of Work with a view to making an offer of employment or engagement to such employee or contractor.

14 CONFIDENTIALITY

- 14.1 Neither party shall without the prior written consent of the other party (during and after termination of this Agreement or any Statement of Work) use (other than in the proper performance of this Agreement or any Statement of Work) or disclose to any other person any Confidential Information of the other party (or in the case of any of the Customer Data hosted by Worksmart, Worksmart shall implement

appropriate security measures to endeavour to avoid such disclosure), except that any obligations contained in this Clause shall not prevent any disclosure of Confidential Information which is required by law, court order or any regulatory authority or disclosure to a party's professional advisors provided that there is a need for such disclosure and such professional advisers have confidentiality obligations imposed on them. The parties' obligations under this paragraph shall survive any termination of this Agreement and shall extend to five (5) years following the termination of this Agreement

15 CHANGES

- 15.1 Any changes to the scope, cost, method or timing of delivery of the Services from that agreed in a Statement of Work (a "Change") may be proposed by either party. Both parties, acting reasonably, shall endeavour to agree any such Change and any associated alteration to the Charges or dates and timescales for delivery of the Services. Any agreed Change shall be agreed by both parties in writing in a Change Order and Worksmart shall not be obliged to execute any Change until the relevant Change Order is signed.

16 FORCE MAJEURE

- 16.1 Neither party shall be liable to the other party for any failure to perform any of its obligations under this Agreement or any Statement of Work or delay in performance if such failure or delay is attributable to any event beyond a party's reasonable control including without limitation any strikes, lock-outs or other industrial disputes (involving the workforce of Worksmart or another supplier), failure of a utility service or telecommunications network, act of God, pandemic, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, breakdown of machinery, , fire, flood or storm. Any inability to pay any sums due under this Agreement or any Statement of Work shall not constitute an event beyond the reasonable control of a party.
- 16.2 If a force majeure event occurs, the party affected shall promptly advise the other party in writing of the circumstances of the force majeure event and the obligations of both parties shall, so far as such obligations cannot be fulfilled, be suspended. If the period of non performance exceeds 90 days, the Party who is not affected by the Force Majeure Event may, by written notice, without liability, terminate the affected Statement of Work.

17 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 17.1 The parties confirm their intent not to confer any rights on any third parties by virtue of this Agreement and accordingly the application of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement or a Statement of Work.

18 ENTIRE AGREEMENT

- 18.1 This Agreement together with the Statement of Works made pursuant to it constitutes the entire agreement and understanding of the parties and supersedes any previous agreement or understanding between the parties with respect to the arrangements contemplated by this Agreement. Each party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.

19 GENERAL

- 19.1 Subject to clause 19.2, neither party shall assign, transfer, charge, hold on trust for another or deal in any other manner with any of their rights or obligations under this Agreement, or purport to do so, or sub-contract any or all of its material obligations under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld or delayed.
- 19.2 Worksmart may assign, novate or subcontract any or all of its rights and obligations under this Agreement to a Group Company save that any sub-contracting of its data processing obligations in respect of the Customer Data shall be in accordance with Schedule 1 clause 4.4.
- 19.3 Any failure to exercise or delay by a party in exercising a right or remedy arising in connection with this Agreement or any Statement of Work shall not constitute a waiver of such right or remedy or of any other rights or remedies.
- 19.4 If any provision of this Agreement or any Statement of Work is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of this Agreement or the Statement of Work and the remainder of the provision in question shall not be affected thereby. If the whole or any part of any clause(s) are invalid or unenforceable the parties agree to attempt to substitute for any invalid or unenforceable provision a valid and enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision. Any such invalidity or enforceability shall not affect the validity or enforceability of any other provision.

- 19.5 Nothing in this Agreement or any Statement of Work shall constitute a partnership, joint venture, representative or agency relationship between the parties hereto or be construed or have effect as constituting any relationship of employer and employee between the parties. Neither party shall have the authority to bind or pledge the credit of, or oblige the other in any way without obtaining the other's prior written consent.
- 19.6 The Customer agrees that Worksmart may refer to the Customer as a Customer of Worksmart and as a user of Software in Worksmart's marketing and public relations materials.

20 NOTICES

- 20.1 Any notice, report, approval or consent required hereunder shall be in writing and will be deemed to have been given if: (i) delivered personally; (ii) mailed by registered first class post postage prepaid; (iii); or sent by electronic mail, or as may be otherwise designated by like notice from time to time, with a copy to, in the case of **Worksmart**, Attention: Managing Director.

21 DISPUTE RESOLUTION

- 21.1 If any dispute arises out of this Agreement or a Statement of Work the dispute shall be referred to the Managing Director of **Worksmart** and the account director or director of the **Customer** who will attempt to settle the dispute promptly and acting in good faith by negotiation.

22 GOVERNING LAW AND JURISDICTION

The terms of this Agreement and each Statement of Work are governed by and shall be construed in accordance with the laws of England and Wales and the parties irrevocably submit to the exclusive jurisdiction of the English Courts.

Signed by a Director for and on behalf of)
WORKSMART LIMITED)

Signed by a Director for and on behalf of)
[])

Schedule 1
Additional Hosting Terms and Conditions

If Worksmart is providing hosting services as part of the Services then the following additional provisions shall apply to such hosting:

- 1 Subject to clause 2 and clause 3 below, the Customer, or its appointed independent auditor that has executed an appropriate confidentiality agreement, shall have the right to undertake an audit, including an accompanied site visit, of Worksmart and any relevant subcontractors to ensure the provision of the Software and Services conforms to the terms of this Agreement. The audit shall be limited to such documentation and relevant records as the Customer may reasonably require to verify that the Services are being performed in accordance with the Agreement but shall not entitle the Customer to access or audit any commercially sensitive information, any information or data belonging to another customer or information which is not directly related to the Services. The Customer will be charged on a time and materials basis in accordance with Worksmart's current blended daily rate for all effort expended in facilitating and supporting the Customer in undertaking a site visit. Any information disclosed or accessed during such audit shall constitute Confidential Information and shall only be used for the proper purposes of the audit.
- 2 The Customer's audit shall not interrupt Worksmart's normal business operations and must take place within Worksmart's standard working hours.
- 3 Save for any audit required by law on shorter notice or at greater frequency, the Customer will provide Worksmart with 28 days' notice of its intentions to undertake an audit and shall only be entitled to exercise this right once in any 12 month period.
- 4 Worksmart and the Customer further agree for the purposes of the Data Protection Legislation that Worksmart is the "Data Processor" and the Customer the "Data Controller" in respect of any "personal data" (as such terms are defined in the Data Protection Legislation) forming part of the Customer Data. This clause 8 is in addition to and does not reduce or replace a party's obligations and rights under the Data Protection Legislation. Particulars of the processing are set out below. In respect of such personal data forming part of the Customer Data Worksmart shall:
 - 4.1 only process such personal data on the written instructions of the Customer and as necessary for the performance of its obligations under this Agreement or the applicable Statement of Work;
 - 4.2 ensure that its staff processing the data are subject to a duty of confidence;
 - 4.3 protect the personal data against unauthorised or unlawful processing and against accidental loss or destruction of, or damage to, such data which measures Worksmart believes to be appropriate to the harm that might result from unauthorised or unlawful processing or accidental loss or destruction of, or damage

- to, personal data and the nature of the data protected having regard to the state of technological development and the cost of implementing any measures;
- 4.4 only engage sub-processors with the prior consent of the Customer and the Customer hereby consents to the appointment of Worksmart's Group Companies as sub-processors. Any appointment of a sub-processor shall be under a written contract between Worksmart and the sub-processor that complies with the requirements of the Data Protection Legislation. A sub-processor's access to the Customer Data shall be restricted to only what is necessary to provide the Services to the Customer. As between the Customer and Worksmart, Worksmart shall remain fully liable for all acts or omissions of any sub-processor appointed by it pursuant to this clause and Worksmart shall remain responsible for the sub-processor's compliance with Worksmart's obligations in this Agreement;
- 4.5 provide reasonable assistance to the Customer in providing subject access and allowing data subjects to exercise their rights under the Data Protection Legislation;
- 4.6 provide reasonable assistance to the Customer in meeting its obligations under the Data Protection Legislation in relation to the security of processing, the notification of personal data breaches and data protection impact assessments;
- 4.7 delete or return at the Customer's cost all relevant personal data to the Customer as requested upon the termination of the Agreement or a Statement of Work in accordance with clause 11.4;
- 4.8 permit the Customer to audit Worksmart in accordance with clause 1 of this Schedule above;
- 4.9 provide the Customer with whatever information it reasonably needs to ensure that they are both meeting their obligations under Article 28 of the GDPR and tell the Customer immediately if it is asked to do something infringing the Data Protection Legislation;
- 4.10 with the exception of any data transfers undertaken by the Permitted Users, not transfer any of the Customer's data outside the UK or EU without the Customer's prior written permission (not to be unreasonably withheld or delayed).
- 5 Worksmart shall follow its back up procedures for Customer Data as set out in the Hosting Options Document appended to the Statement of Work, as such document may be amended by Worksmart from time to time. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy against Worksmart shall be for Worksmart to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Worksmart. Worksmart shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except for any third parties sub-contracted by Worksmart to perform services related to Customer Data maintenance and back-up for which it shall remain fully liable).

6 Particulars of the Data Processing:

Subject matter and duration of the processing of personal data	The hosting of the Customer's data. Such data to be hosted by Worksmart for the term of the Agreement.
The nature and purpose of the processing of personal data	Worksmart will host the Customer Data on its servers and provide support as requested by the Customer.
The type of personal data to be processed	[]
The categories of data subject	[]

Schedule 2
Template Statement of Work

This **STATEMENT OF WORK** is made on []

BETWEEN Worksmart Limited and [add customer name] ("the Customer") as set out in the Agreement for the supply of Software and Services dated []
(the "**Agreement**")

AGREEMENT:

This Statement of Work is incorporated into and governed by the terms of the Agreement.

1 Capitalised terms used but not defined in this Statement of Works shall have the meanings given in the Agreement. Any reference to "paragraph" or "paragraphs" shall refer to the relevant paragraph or paragraphs of the applicable part of this Statement of Work.

2 **SERVICES AND LICENCE**

2.1 Worksmart shall licence the Software described in Part 1 of this Statement of Work and perform the Services set out in Part III of this Statement of Work subject to the assumptions set out in Part III.

3 **CHARGES**

3.1 In consideration of the Licence of the Software and of the supply of the Services, the Customer shall pay the Charges set out in Part II of this Statement of Work in accordance with the Agreement.

4 **PERMITTED USERS**

[]

5 **TERM**

5.1 This Statement of Work shall commence on the Effective Date and continue thereafter until the date being [] years from the date of Acceptance of the Software (the "Initial Period") and shall then automatically renew in accordance with clause 2.2 of the Agreement.

6 **WARRANTY PERIOD**

The Warranty Period shall be [] from the [Acceptance/Delivery] date.

7 **ACCEPTANCE TESTS**

[]

8 **DOCUMENTATION**

Worksmart shall provide the following Documentation: [] in [hard/soft] copy.

9 **CUSTOMER'S LOCATION**

[]

- 10 The Statement of Work shall be governed in all respects by the laws of England and Wales and the parties submit to the exclusive jurisdiction of the English Courts in respect of any dispute arising out of or in connection with it.

DECLARATION AND SIGNATORIES

An authorised representative of Customer should complete the following section which acknowledges acceptance of this Statement of Work and authorises Worksmart to proceed with the delivery of the project identified herein. Approval of this Statement of Work shall be made by a formal signature below.

Signed by **[Director]** for and on behalf)
of **WORKSMART LIMITED**)
Print name)

Signed by [Director] for and on behalf of)

[●])

Print name)

Part I SPECIFICATIONS

1 The Software

[]

The Customer acknowledges that the system created by the Software is in the English language and configured for the UK time zone and currency only.

Part II THE CHARGES

1. Worksmart Implementation Services

Worksmart will provide the Implementation Services as defined in section 1 of Part III for £[].

2. Worksmart Training [and Consultancy] Services

Worksmart will provide the Training [and Consultancy] Services as defined in [] of Part III for £[].

3. Worksmart [Hosted] Software & Support

The [hosted] software licence fee shall be £[] for the initial 12 month period from the date of Acceptance. Thereafter the ongoing annual [hosted] software licence shall be increased in accordance with the Agreement with effect from the anniversary of the date of Acceptance.

4. Payment Schedule

The Implementation Services and the Training Services will be invoiced [].

The Customer must pay the software licence fee for the first 12 months on the date of Acceptance and Worksmart shall issue invoices annually thereafter on or around the date being 30 days before the anniversary of such date for subsequent 12 month periods.

5. Additional Licence Fees

If the Customer wishes to purchase additional Licences for the Software to increase the number of Permitted Users, those licences shall be added to this Statement of Work pursuant to a Change Order and they shall be priced in minimum blocks of ten users per order as follows:

[]

6. Expenses

The fees above do not include travel and related expenses that Worksmart may incur in providing the Services which shall be charged for separately. If Worksmart is required to provide Services at the Customer's premises, the Customer is responsible for Worksmart's reasonable travel and accommodation expenses that have been approved in advance by the Customer.

7. Additional Charges

Any services in addition to the Services that the Customer agrees to purchase pursuant to a Statement of Work will, unless otherwise agreed, be charged by Worksmart on a time and material basis in accordance with Worksmart's current blended daily rate of £[] per day which will be increased annually by RPI.

8. VAT

All prices are exclusive of and subject to VAT at the prevailing rate.

PART III

SERVICES

1. Implementation Services

Worksmart will provide the following implementation services (the “Implementation Services”):-

[]

2. Training Services

Worksmart will provide the following Training Services (the “Training Services”):-

[]

3. Consultancy Services

Worksmart shall provide the following consultancy services:

[]

4. Hosting Services

4.1 [The Customer will host the Software in its own IT environment/Worksmart shall host the Software in accordance with the [Standard/Premium Offering] as set out in the documents referred to at Appendix 1.]

4.2 The Worksmart system is tested to operate on end user machines running the Microsoft Windows 10 or 11 (operating system) and utilising the Chrome or Edge internet browsers and have a minimum screen resolution of 1024 x 768 pixels. Compatibility with these software versions is tested and subsequently guaranteed up to the date of Software Acceptance. These requirements may change in the future with new releases of the Software. In this circumstance, Worksmart will give the Customer advance warning of any required changes. See the Technical Requirements in Appendix 2.

[If Worksmart is hosting, also include the following:-

4.3 Worksmart will provide the Customer with 1 remote desktop, this will be used for report creation and form maintenance in accordance with Appendix 1.

4.4 From time to time Worksmart may temporarily suspend access to the Software for maintenance, repairs or other reasons. Worksmart will try to do this outside of normal business hours and provide notice in advance where practicable.

4.5 Worksmart cannot guarantee uninterrupted use of the Software and some interruptions may be caused by reasons outside Worksmart's control including delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet. In those circumstances, Worksmart will not be responsible for any failure to perform its obligations in this Agreement.]

5 Technical Support Services

Worksmart will provide a help-desk staffed by personnel with sufficient knowledge and expertise regarding the System to provide second-line technical support assistance to the Customer's IT Helpdesk (who will liaise with the system users) to resolve errors in the Software ("the Support Services") in accordance with the service levels set out below.

6 Service Levels

Worksmart will provide the Support Services from 9.00am to 5.00pm Monday to Friday, excluding bank holidays in England ("Support Hours").

Upon receiving notification of an error in the Software via Worksmart's support portal (JIRA), Worksmart will provide a preliminary response to the error that will identify the actions required to resolve the issue ("**Initial Response**"). At the same time Worksmart will assign an ID reference to that issue, allocate a specific point of contact and validate the severity level. Events caused by factors outside of Worksmart's control which result in a system error (e.g. upgrades to non-compatible operating systems or browsers) are not covered by these Support Services and may require additional charges to be levied.

Worksmart will use its reasonable endeavours to provide the Initial Response to the Customer within the target response time, set out below, based on the severity level.

Severity Level	Severity Definitions	Examples	Target Response Time*
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Severity Level	Severity Definitions	Examples	Target Response Time*
Severity 1	Critical Service Impact Issue critically affects the primary application purpose and is inaccessible by the majority of users. Characteristics of a Severity 1 issue include • Business service is not operational • Production system crashes • Data integrity at risk • Production backup and recovery operations fail Where a practical workaround is available, incident is usually downgraded to a severity 2.	• Worksmart application is not available • Production system crashes when navigating hierarchy / loading front screen data • Users are able to bypass security settings and see restricted data	Under 1hr
Severity 2	Significant Service Impact A software or configuration component is severely restricted in its use, causing significant business impact. Characteristics of a Severity 2 issue include • A key business process is unable to complete • Poor Performance of the system • Configuration rules are performing to specification	Typical examples of this may include: • An import failing resulting in a day's case population not being available • A coded notification email in a form is not being sent / delivered causing communication failures • New forms are not being created as per a documented specification	4 hrs
Severity 3	Moderate Service Impact: A non-critical software component is malfunctioning, causing moderate business impact.	• Taking a specific set of steps in a form causes a defect, but can be worked around by alternative steps • A hierarchy import processes failing to move a minor number of people to the leaver's team	10 hrs
Severity 4	Minimal Service impact A non-critical software component is malfunctioning, causing minimal	A cosmetic issue is identified, such as a typing error	3 Days

Severity Level	Severity Definitions	Examples	Target Response Time*
	impact, or a non-technical request is made		
Non Live Issues	No Service Impact. An issue affecting a pre-production environment.	Customer developed form changes which are causing errors and support is required to resolve before going live	Each incident will be reviewed & timescales discussed.

** Please note Service Levels only apply to Incidents / Problems & Events, Requests do not have Service Levels but will be progressed in a timely manner.*

In the event the issue is of Severity Level 1, status update reports will be provided hourly and Worksmart will allocate a full time resource to the issue until a solution is provided.

The Initial Response will be by email or telephone call. Any Initial Response made by telephone will be followed by an email confirming any actions agreed.

The target response times assume that the error is reported to Worksmart during the Support Hours. If the request is received outside the Support Hours, the target response time will be calculated from the resumption of Support Hours. Target response times are calculated only during Support Hours.

Such response times are a target only and not a contractual obligation and Worksmart shall have no liability for any failure to achieve such response times. In the event that Worksmart fails to meet the target response time, the Customer may request that the error be escalated to the Head of Service Delivery for Worksmart and this shall be the Customer's sole remedy in respect of such failure.

7 Service Level Exclusions

The target response times shall not apply if a Force Majeure event occurs, in cases of Customer user error or in cases of the Customer seeking guidance.

8 Project Assumptions

[]

9 Implementation Plan

[]

Appendix 1

Hosting

As described in the following documents which have been provided by Worksmart to the Customer prior to the Effective Date:

- Hosting Options Document
- Worksmart Remote Desktop Services Document

Appendix 2

Technical Requirements

As described in the following document which has been provided by Worksmart to the Customer prior to the Effective Date:

- Technical Requirements for Foundation

Davies Group Limited

Registered Company No. 06479822. Registered in England and Wales
Registered Office: 5th Floor, 20 Gracechurch Street, London EC3V 0BG

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