

TERMS AND CONDITIONS

1. INTRODUCTION

These Terms and Conditions (“**Terms**”) apply to any Contract entered into between you (“**You**” or “**Customer**”) as identified on the Order of which these Terms form part, and **QUALITY COMPLIANCE SYSTEMS LTD** (company number 06234100) registered in England and Wales with registered office at 1 Church Road, Richmond, TW9 2QE (“**QCS**”, “**we**” or “**us**”). QCS provides care planning management software through Website and Mobile applications for the social care sector.

2. INTERPRETATION

- 2.1 Except where expressly stated otherwise in these Terms or an Order, the following words and phrases shall have the following meanings:

Authorised Location: the location specified in the Contract being the location in which or from which regulated activities are provided by or managed by Customer;

Authorised Users: those employees or agents of Customer who are authorised by Customer to use the Services, as further described in clause 4.7;

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;

Confidential Information: information that is proprietary or confidential and is either clearly labelled or otherwise identified as such, or would reasonably be deemed to be confidential;

Consumer Price Index: the Consumer Price Index (CPI) (all items) (United Kingdom) or its equivalent in the territory in which the Customer is registered;

Contract: a contract for either a Trial Licence or Services (comprising an Order and these Terms) which has been accepted in writing by QCS;

Customer: the firm, person or business who purchases Services from QCS as identified in the Contract;

Customer Data: the data inputted by Customer, its Authorised Users, or QCS on Customer’s behalf for the purpose of using the Services or facilitating Customer’s use of the Services;

Data Protection Legislation: the Data Protection Act 2018 and the UK implementation of the General Data Protection Regulation ((EU) 2016/679) (“UK GDPR”) as well as all national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK. Terms defined in the Data Protection Legislation shall have the same meanings in this Contract;

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Discount: a reduction in the Subscription Fees against the price QCS would normally charge to a customer;

Effective Date: the date identified for the commencement of a Contract as set out in clause 3.2;

Initial Subscription Term: the period as stated within the Order starting on the Effective Date ;

Mobile Application: the mobile application provided by QCS which can be downloaded via most major online app stores or such other location as may be notified by QCS to Customer from time to time;

Normal Business Hours: 9:00 am to 5.00 pm local UK time, each Business Day;

Order: an order in the form generated by QCS from time to time (to which these Terms apply) and agreed by Customer;

Permitted Alterations: any editing or other alteration of downloaded QCS Documentation for Customer's internal business purposes only;

QCS Documentation: the documents, policies, manuals, forms, toolkits and materials and all content in whatever form made available by QCS to Customer, which QCS may elect to provide online through the Website;

Renewal Period: a period described in clause 4.5;

Services: the subscription services identified in an Order delivered by QCS in accordance with a Contract, including use of and access to the QCS Documentation and Software, as supplemented by Schedule 1;

Service Levels: the target response times to issues arising as defined in Schedule 1;

Software: the online software applications provided by QCS as part of the Services;

Subscription Fees: the subscription fees payable by Customer to QCS for the User Subscriptions, as set out in the Contract;

Subscription Term: the duration of a Contract being the Initial Subscription Term together with any subsequent Renewal Periods;

Trial Licence: a licence for Services during the Trial Period only as requested by Customer in the Order;

Trial Period: shall mean 24 hours from QCS granting the Trial Licence pursuant to clause 4;

User Subscriptions: the user subscriptions purchased by Customer and identified in an Order pursuant to which entitle Authorised Users at an Authorised Location to access and use the Services and the QCS Documentation in accordance with the Contract;

Virus: any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other

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service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data; or adversely affect the user experience;

Website: such QCS website address as may be notified by QCS to Customer from time to time.

- 2.2 Clause and paragraph headings shall not affect the interpretation of the Contract.
- 2.3 Reference to a person includes an individual, corporate or unincorporated body and that person's legal and personal representatives, successors or permitted assigns.
- 2.4 Reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 2.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular, and references to one gender shall include references to all genders.
- 2.7 Reference to a statute or statutory provision is a reference to it as it is in force as at the date of the Contract and shall include all subordinate legislation made as at the date of the Contract under that statute or statutory provision.
- 2.9 Any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 2.10 Reference to writing or written includes e-mail but not faxes.

3. FORMATION OF THE CONTRACT

- 3.1 An Order sent by Customer to QCS is an offer to QCS to enter into a Contract on the terms of such Order. Customer acknowledges that these Terms form part of any Order and by submitting the Order, Customer confirms that it meets the minimum system requirements for access to the Service as described on the Website.
- 3.2 A Contract between the Parties is formed and shall commence in the case of:
 - 3.2.1 a Trial Licence, with effect from Customer's first log-in using details provided by QCS for that purpose which requires Customer's agreement to these Terms; or
 - 3.2.2 Services (a subscription licence), at such time as Customer completes payment for the relevant Order (which will require Customer to have agreed to these Terms).
- 3.3 Following conclusion of a Contract pursuant to Clause 3.2.2, digital confirmation and access to a copy of the Contract will be provided to Customer.

4 LICENCE

Trial Licence

- 4.1 Where the Contract is for a Trial Licence, QCS hereby grants to Customer a non-exclusive, non-transferable licence (without the right to grant sublicenses) to use the Services during

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the Trial Period solely for the purposes of Customer evaluating the Services for use in Customer's business.

- 4.2 A Trial Licence is granted only to Authorised Users. Customer shall ensure that any such Authorised User(s) keeps a secure password (and/or PIN) for their use of the Services and that such password (and/or PIN) shall not be shared.
- 4.3 Customer acknowledges and agrees that its access to the Services will automatically cease at the end of the Trial Period without notice from QCS.
- 4.4 Customer shall have no right to make copies, print, adapt, revise or modify in any way the Services during the Trial Period.

User Subscription Licence

- 4.5 A Contract for Services shall continue for the Initial Subscription Term and, thereafter, the Contract shall be automatically renewed for successive periods of 12 months (each a "Renewal Period"), unless:
 - (a) either party notifies the other party of termination using the cancellation process at www.qcs.co.uk/notify-qcs at least 30 days before the end of the Initial Subscription Term or any Renewal Period, in which case the Contract shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period, unless such notification is rescinded prior to the end of the Initial Subscription Term or any Renewal Period; or
 - (b) otherwise terminated in accordance with the provisions of the Contract; or
 - (c) otherwise specified on the Order.
- 4.6 Where the Contract is for Services (a subscription licence), QCS hereby grants to Customer a non-exclusive, non-transferable right (without the right to grant sublicenses) to permit the Authorised Users at the Authorised Location(s) to use the Services during the Subscription Term solely for Customer's internal business operations.
- 4.7 In relation to Authorised Users, Customer undertakes that:
 - (a) all Authorised Users will be available for the required training as identified in Schedule 1 unless agreed otherwise. Any additional training which is required will be charged at QCS rate from time to time;
 - (b) the maximum number of Authorised Users shall not exceed the number of User Subscriptions purchased from time to time. QCS reserves the right to charge a supplementary fee if Customer requires more than 200 Authorised Users.
 - (c) it will not allow any User Subscription to be used by anyone other than the relevant Authorised User unless it has been reassigned in its entirety;
 - (d) each Authorised User shall keep a secure password (and/or PIN) for their use of the Services, and that each Authorised User shall keep their password (and/or PIN) confidential;
 - (e) it shall maintain a written, up to date list of then-current Authorised Users and Authorised Locations and provide such list to QCS within five Business Days of QCS' written request; and

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- (f) it shall permit QCS or QCS' designated auditor to audit Customer's use of the Services in order to review compliance with the Contract. Each such audit may be exercised with reasonable prior notice, in such a manner as not to substantially interfere with Customer's normal conduct of business.
- 4.8 If any audit referred to in clause 4.7(f) reveals that any password has been provided to any individual who is not an Authorised User, then without prejudice to QCS' other rights, QCS may promptly disable such password and choose not to issue any new passwords to any such individual; and
- 4.9 If any audit referred to in clause 4.7(e) reveals or QCS otherwise becomes aware that Customer has underpaid Subscription Fees to QCS, then without prejudice to QCS' other rights, Customer shall pay to QCS an amount equal to such underpayment within 10 Business Days of the date of the relevant audit.
- 4.10 Customer shall not use (or permit its employees to use) the Software to access, store, distribute or transmit any Viruses or any material 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 propertyand QCS reserves the right, without liability or prejudice to its other rights to Customer, to disable Customer's access to any material that breaches the provisions of this clause.
- 4.11 In relation to Contracts for Services only (and not any Trial Licence), subject to clause 4.10, Customer may:
 - (a) download from the Website or the Mobile Application up to a maximum of 30 items per month (whether in Word or .pdf format) of available QCS Documentation (unless QCS agrees in advance in writing to increase such number); and
 - (b) where it undertakes any Permitted Alteration, Customer may not remove QCS' trade mark notices from such templates.

5 SERVICES

- 5.1 QCS shall, during the Subscription Term, provide the Services to the Authorised Location(s) and make available the Documentation to Customer via www.qcs.co.uk, the Mobile Application, or any other website notified to Customer by QCS from time to time.
- 5.2 QCS shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for planned maintenance as laid out in Schedule 1.

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5.3 If there are errors in the Services, QCS will, at its expense, use all reasonable endeavours to correct any non-conformity promptly, or provide Customer with an alternative means of accomplishing the Service Levels desired performance. Notwithstanding the foregoing, QCS:

- (a) does not warrant that Customer's use of the Services will be uninterrupted or error-free; or that the Services, QCS Documentation and/or the information obtained by Customer through the Services will meet Customer's requirements; and
- (b) is not responsible for any delays or delivery failures resulting from the transfer of data over communications networks and facilities.

5.4 QCS will only provide the QCS Documentation to Customer in electronic format.

5.5 QCS warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under the Contract.

6 CUSTOMER DATA

6.1 Both Parties will comply with all applicable requirements of the Data Protection Legislation. Customer shall own all Customer Data and is wholly responsible for (i) the accuracy and (ii) the lawful use of any Customer Data in or as part of the Services. Customer will ensure that it has all necessary appropriate consents and permissions to enable the lawful transfer of Customer Data to QCS for the duration and purposes of the Contract.

6.2 Customer acknowledges that it is wholly and exclusively responsible for the security of all of its own information (including Customer Data) and that subject to clause 14, any advice, assessment or audit delivered by QCS as part of the Service does not include QCS accepting any liability therefor.

6.3 QCS shall, in providing the Services, comply with its Privacy and Cookie Policy relating to the privacy and security of Customer Data available at <https://www.qcs.co.uk/privacy-and-cookie-policy/> as amended from time to time by QCS in its sole discretion.

6.4 The Parties agree to adhere to the obligations set out in Schedule 2 in relation to the processing of any Personal Data as part of the Services.

7 THIRD PARTY PROVIDERS

QCS makes no representation or warranty, does not endorse or approve and shall have no liability whatsoever in relation to Customer's use of, or correspondence with any third-party website or any contract entered into by Customer with any third party, whether or not introduced as part of the Services. Any contract entered into via any third-party website is between Customer and the relevant third party.

8 CUSTOMER'S OBLIGATIONS

8.1 Customer shall:

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- (a) comply with all applicable laws and regulations with respect to its activities under the Contract;
- (b) be responsible for any Authorised User's use of the Services and the QCS Documentation, as well as any acts or omissions of such Authorised Users which would constitute a breach of the Contract by Customer;
- (c) ensure that the Services and QCS Documentation are only used by Authorised Users at the Authorised Location(s);
- (d) use only the latest available version of the Software; and
- (e) be solely responsible for compliance with specific network requirements as well as procuring and maintaining its network connections and telecommunications links with QCS' data centres.

8.2 Customer expressly acknowledges and accepts that it is solely responsible for any Permitted Alterations that it makes of the QCS Documentation.

8.3 Customer shall carry out all Customer responsibilities set out in the Contract in a timely and efficient manner. In the event of any delays in Customer's provision of such assistance as agreed by the Parties, QCS may adjust any agreed timetable or delivery schedule as reasonably necessary.

8.4 For the avoidance of doubt, the Mobile Application is only available in the UK unless specifically agreed with Customer and configured by the QCS security team. Due to security considerations, QCS only supports Android and Apple devices with operating system versions which have not been deprecated by Google/Apple. QCS is not responsible for any devices with operating systems that are not supported by Google/Apple.

8.5 In relation to any devices provided to Customer by QCS:

- (a) such devices are subject to the manufacturer's warranty and their terms and conditions. QCS does not guarantee or warrant such devices and will have no liability for any issues caused by or relating to the devices;
- (b) details of recommended devices will be advised at the time of purchase.
- (c) these are supplied with a two year device management software system. After the first two years, the device management licence will be automatically renewed without notice which will incur a device licence management fee payable by Customer on receipt of invoice;
- (d) breakages or damage must be paid for by Customer;
- (e) lost or stolen equipment must be informed to QCS immediately to ensure the Software and its data is protected; and
- (f) only Software and device management issues will be supported and fixed by QCS.

9 PURCHASE OF ADDITIONAL SERVICES/USER SUBSCRIPTIONS/AUTHORISED LOCATIONS

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- 9.1 Customer may at any time during any Subscription Term request additional Services, User Subscriptions or Authorised Locations by notifying QCS in writing. The fees for such additional Services, User Subscriptions or Authorised Locations are as set out in the Order or otherwise agreed. If purchased part-way through the Subscription Term, such fees shall be pro-rated from the date of activation by QCS for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable).
- 9.2 All payments to be made pursuant to clause 9.1 are due in advance and QCS shall not provide additional Services, User Subscriptions or Authorised Locations to Customer until Customer makes such payment.
- 9.3 QCS reserves the right to require Customer to enter into a replacement Contract to cover all existing and additional Services, User Subscriptions and/or Authorised Locations. As per 4.7 (b), QCS reserves the right to charge a supplementary fee if Customer requires more than 200 Authorised Users.

CHARGES AND PAYMENT

- 10.1 Customer shall pay the Subscription Fees at the frequency and in the manner identified in the Order (including VAT or similar sales tax, if applicable). For the avoidance of doubt, initial training and set-up fees will be invoiced upon signature.
- 10.2 If QCS has not received payment by the due date for whatever reason and without prejudice to any other rights and remedies of QCS:
 - (a) QCS may, without liability to Customer, disable Customer's password, account and access to all or part of the Services and QCS shall be under no obligation to provide any or all of the Services while the relevant invoice(s) concerned remain unpaid;
 - (b) interest shall accrue compounding on a daily basis on any overdue amounts at an annual rate equal to 4% over the base lending rate of the Bank of England from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment;
 - (c) QCS may charge an administration fee of £40 plus VAT, or equivalent amount in the local currency of Customer, to Customer for each failure by Customer to make payment on a due date for any reason; and
 - (d) notwithstanding clause 15.2(a), if payment is not received within 30 days from such due date, the entirety of the Subscription Fees for the Subscription Term (less any of the Subscription Fees already paid) shall become immediately due and payable by Customer on demand by QCS, and QCS may bring legal proceedings against Customer in respect of all outstanding Subscription Fees.
- 10.3 All amounts and fees stated or referred to in the Contract:
 - (a) shall be payable in pounds sterling, unless otherwise specified on the Order;
 - (b) are non-cancellable and non-refundable;
 - (c) are exclusive of value added tax or similar sales tax, if applicable, which shall be added to QCS' invoice(s) at the appropriate rate and which shall be payable by Customer.

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- 10.4 If QCS discovers an error in the Subscription Fees, it shall (i) (if lower) charge Customer the lower amount and refund the difference for Subscription Fees already paid; or (ii) (if higher) give Customer the option of continuing to purchase the Services at the correct price (and refunding the difference) or cancelling the Order.
- 10.5 QCS shall be entitled to increase the Subscription Fees no more frequently than once annually, such increase to take effect the anniversary of the Effective Date:
- 10.5.1 by a rate less than or equal to the change in the Consumer Price Index during the previous year, by giving not less than 30 days' prior written notice; or
- 10.5.2 by a rate higher than the change in the Consumer Price Index during the previous year, by giving not less than 60 days' prior written notice. Where any increase under this clause 10.5.2 is not acceptable to Customer, Customer may terminate the Contract pursuant to clause 4.5(a).
- 10.6 In addition to clause 10.5, where QCS offers the Services during any Initial Subscription Term or any Renewal Period at a Discount to Customer which is agreed to by the Parties, such Discount shall only apply for the agreed Initial Subscription Term or Renewal Period (as applicable) and on expiry of such period, the Discount shall cease to apply. Subscription Fees in any period following expiry of the period to which the Discount relates shall be calculated by reference to full, non-discounted prices.
- 10.7 Where a Contract with an Initial Subscription Term of longer than twelve (12) months automatically renews for a Renewal Period pursuant to clause 4.5 then subject to clause 10.5 and 10.6 the Subscription Fees for the Renewal Period shall be equal to QCS' standard one-year subscription pricing at the time of commencement of the relevant Renewal Period. QCS shall notify Customer at least forty-five (45) days prior to commencement of the relevant Renewal Period of the applicable Subscription Fees.
- 10.8 If QCS otherwise becomes aware that Customer has (i) underpaid Subscription Fees to QCS, or (ii) Customer has allowed access to the Services at a location which is not an Authorised Location, then without prejudice to QCS' other rights, Customer shall pay to QCS an amount equal to the full list price for each such underpayment, notwithstanding any Discount that has previously been granted to the Customer within 10 Business Days of the date of the relevant audit.

11 INTELLECTUAL PROPERTY

- 11.1 All intellectual property in whatever form and other proprietary notices and symbols used or provided by QCS as part of the Services or QCS Documentation is owned by QCS (or licensors of QCS as the case may be), and no licences or permissions are granted except as expressly set out in these Terms. All goodwill arising through any use of the same by Customer will accrue to and be for the benefit of QCS and/or its licensors as applicable.
- 11.2 Any QCS Documentation and any other material protected by intellectual property rights are provided within the scope of the Services subject to the licence granted to Customer as set out in this Contract only. Without limitation, Customer will not and will not permit any person to register any domain using any QCS intellectual property rights nor use any such rights in a way which may diminish or damage any goodwill in any of the same.

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11.3 Customer shall not (and shall not attempt to):

- (a) except (x) as may be allowed by any applicable law which is incapable of exclusion by agreement between the Parties and (y) to the extent expressly permitted under this Contract:
- (i) copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or QCS Documentation (as applicable) in any form or media (including without limitation ChatGPT, any third party AI tool or any similar AI-based tool) or by any means; or
- (ii) de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-readable form all or any part of the Software; or
- (b) access all or any part of the Services and QCS Documentation in order to build a product or service which competes with the Services and/or the QCS Documentation; or
- (c) use the Services and/or QCS Documentation to provide services to third parties; or
- (d) licence, sell, otherwise commercially exploit, or make the Services and/or QCS Documentation available to any third party except the Authorised Users; or
- (e) remove any copyright, trade mark and other proprietary notices, legends, symbols or labels from any Software and/or QCS Documentation.

11.4 QCS confirms that it has all the rights in relation to the Services and the QCS Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of the Contract.

12 CONFIDENTIALITY

12.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under the Contract. A party's Confidential Information shall not be deemed to include information that:

- (a) is or becomes publicly known other than through any act or omission of the receiving party;
- (b) was in the other party's lawful possession before the disclosure;
- (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
- (d) is independently developed by the receiving party, which independent development can be shown by written evidence.

12.2 Subject to clause 12.4, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of the Contract.

12.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of the Contract.

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- 12.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 12.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 12.5 Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute QCS' Confidential Information.
- 12.6 QCS acknowledges that Customer Data is the Confidential Information of Customer.
- 12.7 No party shall make, or permit any person to make, any public announcement concerning the Contract without the prior written consent of the other Parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

13 INDEMNITY

- 13.1 QCS shall defend Customer, its officers, directors and employees against any claim that the Services or QCS Documentation infringes any third-party (i) patent effective as of the Effective Date, (ii) copyright, trade mark, database right or right of confidentiality, and shall indemnify Customer for any amounts awarded against Customer in judgment or settlement of such claims, provided that:
- (a) QCS is given prompt notice of any such claim;
 - (b) Customer provides reasonable co-operation to QCS in the defence and settlement of such claim, at QCS' expense; and
 - (c) QCS is given sole authority to defend or settle the claim.
- 13.2 Customer shall indemnify QCS against any losses, expenses or costs arising out of or in connection with Customer's use of the Services and/or QCS Documentation other than in accordance with the Contract, provided that:
- (a) Customer is given prompt notice of any such claim;
 - (b) QCS provides reasonable co-operation to Customer in the defence and settlement of such claim, at Customer's expense; and
 - (c) Customer is given sole authority to defend or settle the claim.
- 13.3 In the defence or settlement of any claim brought under clause 13.1, QCS may procure the right for Customer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate the Contract on two Business Days' prior notice to Customer without any additional liability or obligation to pay liquidated damages or other additional costs.

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13.4 In no event shall QCS, its employees, agents and sub-contractors be liable to Customer to the extent that the alleged infringement is based on:

- (a) a modification of the Services or QCS Documentation by anyone other than QCS; or
- (b) Customer's use of the Services or QCS Documentation other than in accordance with this Contract; or
- (c) Customer's use of the Services or QCS Documentation after notice of the alleged or actual infringement from QCS or any appropriate authority.

13.5 This clause 13 states Customer's sole and exclusive rights and remedies, and QCS' (including QCS' employees', agents' and sub-contractors') entire obligations and liability, for infringement by the Services or QCS Documentation of any third-party patent, copyright, trade mark, database right or right of confidentiality.

14 LIMITATION OF LIABILITY

14.1 Nothing in the Contract excludes either Party's liability:

- (a) for death or personal injury caused by that Party's negligence;
- (b) for fraud or fraudulent misrepresentation; or
- (c) any liability which cannot be excluded or limited by law.

14.2 Customer acknowledges and agrees that:

14.2.1 QCS works with and integrates to third party medication systems which have been specially built to manage the administration of medications. Customer must decide on whether this suits its needs. QCS takes no responsibility or liability for the use or issues resulting from a third-party medication system. Any data provided by a third party medication system is solely the responsibility of Customer and its supplier. The medications recording functionality built into the Software does not in any way constitute a medications administration system. Accordingly QCS accepts no liability for any issues relating to medication administration. Customer must implement its own robust medication management process, administration and reporting.

14.2.2 The Software integrates an AI technology tool known as "Lyra" which provides general information and guidance based on latest policies and best practice. For urgent or serious concerns, please contact a qualified professional or emergency services. By using this tool, Customer agrees that Lyra (i) can make mistakes and Customer is solely responsible for checking and verifying any information provided; (ii) is for informational purposes only; and (iii) does not replace expert advice. Accordingly, QCS is not responsible for any actions taken based on AI responses and as far as allowed by law, QCS shall not be liable for any loss or damage arising or suffered as a result of Customer using this tool.

14.3 Subject to the remainder of this clause 14, QCS shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for (i) any liability of any kind in any circumstances whatever to Customer in respect of the Services or QCS Documentation under the Trial Licence; or (ii) any loss or

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damage arising in each case whether direct or indirectly and howsoever incurred in relation to any:

- (a) loss of business;
- (b) depletion of goodwill and/or similar losses;
- (c) loss or corruption of data or information; or
- (d) loss of profits

arising under a Contract for Services.

14.3 QCS' total aggregate liability to QCS (including in respect of the indemnity at clause 13.1) arising under or in connection with the performance or contemplated performance of the Contract shall be limited to the total Subscription Fees actually paid for the User Subscriptions during the twelve (12) months immediately preceding the date on which the claim arose.

14.4 Except as expressly and specifically provided in the Contract:

- (a) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from the Contract; and
- (b) the Services and the QCS Documentation are provided to Customer on an "as is" basis.

14.5 Customer assumes sole responsibility for results obtained from the use of the Services and the QCS Documentation by Customer, and for decisions made and/or conclusions drawn from such use. QCS shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to QCS by Customer in connection with the Services, or any actions taken by QCS at Customer's direction. Without limiting the generality of the foregoing, Customer is strictly and solely responsible for Permitted Alterations.

14 TERMINATION

15.1 QCS may terminate a Trial Licence during the Trial Period immediately by giving written notice if Customer is in breach of any of its obligations set out in these Terms.

15.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
- (b) the other party commits a material breach of any other term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- (c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its

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debts within the meaning of section 123 of the Insolvency Act 1986, as if the words “it is proved to the satisfaction of the court” did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;

- (d) 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 15.2(c); or
- (e) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

15.3 On termination of the Contract for any reason QCS shall comply with any request for data migration to a new supplier under the Digital Social Care Records (DSCR) data migration standards and will co-operate with any new supplier to ensure that a safe and effective data migration can take place, subject always to which:

- (a) all licences granted under the Contract shall immediately terminate and Customer shall immediately cease all use of the Services and/or the Documentation;
- (b) each party shall return and make no further use of any equipment, property and other items (and all copies of them) belonging to the other party;
- (c) QCS shall destroy (or where not possible, put beyond ordinary course access) any Customer Data in its possession; and
- (d) any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination shall not be affected or prejudiced.

16 EQUALITY, NON-DISCRIMINATION, HUMAN RIGHTS AND STATUTORY DUTIES

16.1 Each Party will not, and will use reasonable endeavours to ensure that its employees, contractors and agents will not, discriminate directly or indirectly against any person on the basis of age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex or sexual orientation.

16.2 Each Party will, and will use reasonable endeavours to ensure that its employees, contractors and agents will, at all times, comply with and act in a way which is compatible with the Human Rights Act 1998, the Equality Act 2010 and the equality duty imposed by that Act.

16.3 Counter Terrorism and Security Act 2015 (“CTSA”). Each Party agrees it shall cooperate with the other, including provision of such information as may be requested, to support compliance with the requirements of the CTSA.

16.4 Modern Slavery Act 2015. Each Party warrants that it does (and will continue to) comply with its obligations under the Modern Slavery Act 2015.

16.5 Anti-bribery and Anti-corruption. Each Party shall at all times comply with all applicable laws, statute, regulations and codes relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010.

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- 16.6 Criminal Finances Act 2017. Each Party shall at all times comply with all applicable laws, statute, regulations and codes relating to prevention of tax evasion, including but not limited to Criminal Finances Act 2017.

17 FORCE MAJEURE

- 17.1 QCS shall have no liability to Customer under any Contract if it is prevented from or delayed in performing its obligations under any Contract by acts, omissions or events beyond its reasonable control, including, without limitation, industrial disputes (whether involving the workforce of QCS or any other party), failure of a utility, service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, fire, flood, pandemic or default of suppliers or sub-contractors, provided that Customer is notified of such an event and its expected duration.
- 17.2 Either Party may terminate a Contract with immediate effect if an event of force majeure as described in clause 17.1 continues for more than three successive months.

18 GENERAL PROVISIONS

- 18.1 Conflict. If there is an inconsistency between any of the provisions in the main body of these Terms and the Order, the provisions in the Order shall prevail.
- 18.2 Variation. Unless expressly stated in these Terms, no variation of the Contract shall be effective unless it is in writing and signed by the Parties (or their authorised representatives). QCS may, from time to time, revise and amend these Terms (and vary the Contract accordingly) (provided that such revisions or amendments do not materially change the Contract) by providing to Customer at least 30 days prior written notice.
- 18.3 Waiver. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 18.4 Entire Agreement. The Contract constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into the Contract 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 the Contract. Nothing in this clause shall limit or exclude any liability for fraud.
- 18.5 Assignment. Customer shall not, without the prior written consent of QCS, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

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18.6 Third Party Rights. The Contract does not confer any rights on any person or party (other than the Parties to the Contract and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

18.7 Notices.

- (a) Any notice required to be given under the Contract by Customer to QCS shall be in writing and emailed to info@qcs.co.uk or such other email address as may have been notified by QCS for such purposes.
- (b) Any notice required to be given under the Contract by QCS to Customer shall be in writing and emailed to Customer at the email address given by Customer in the Order, or such other email address as may have been notified by Customer for such purposes.
- (c) Notices sent by email shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender evidencing delivery to the correct address).

19 GOVERNING LAW AND JURISDICTION

The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales, and each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).

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Schedule 1 – Services

1. Initial Training (where stated in the Order)

- (a) Initial training is designed to train the trainer. Customers should nominate staff to take on these roles.
- (b) Any additional training not stated on the above proposal or quotation will be chargeable in accordance with QCS' published rate card from time to time.
- (c) A minimum online training cancellation period of 48 hours is required. Online training that is cancelled within the 48-hour notice period will be chargeable in accordance with QCS' published rate card from time to time per cancelled session and no further training will take place until the cancellation charge is fully paid.
- (d) A minimum onsite training cancellation period of 5 working days is required. Onsite training that is cancelled within the 5 working day notice period will be chargeable in accordance with QCS' published rate card from time to time per cancelled session and no further training will take place until the cancellation charge is fully paid.

2. Service Levels

- (a) QCS will use reasonable endeavours to provide the Services 24 hours a day, seven days a week, except for:
 - a. QCS Care Management Software where any planned maintenance and upgrades are to be carried out during the maintenance window of 03.00 and 05.30 UK time and are expected to take between 20 and 50 minutes, and;
 - b. QCS Compliance Software where any planned maintenance and upgrades are to be carried out during the maintenance window of 22.00 to 08.00 am UK time.
- (b) Any unscheduled maintenance will be performed outside Normal Business Hours where reasonably possible. Downtime during Normal Business Hours may be necessary in circumstances where this is necessary to resume normal Services. During core hours, availability is targeted at 99.5% across a 12-month period.
- (c) The QCS support team can be reached on support@carebeans.co.uk with an SLA response time of 24 hours. Any fix time will be communicated in the case resolution.
- (d) The Servers are monitored 24 hours a day, seven days a week in case of cyber-attack or server failure.

3. Customer Responsibilities

- (a) Customer is responsible for assigning a nominated system expert that should handle all first line support queries prior to contacting QCS.
- (b) Customer must make every effort to resolve the issue prior to contacting support, such as:
 - a. Check with nominated system expert that it cannot be addressed internally;

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- b. Check Wi-Fi and internet is working;
 - c. Provide adequate information to help QCS Support identify the issue as quickly as possible.
- (c) QCS reserves the right to charge for any support which is due to persistent error or lack of training.

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Schedule 2 – Data Protection

1. QCS shall, in relation to any Personal Data processed in connection with the performance by QCS of its obligations under the Contract:
 - (a) process that Personal Data only on the instructions of Customer unless Data Protection Legislation requires otherwise;
 - (b) not transfer any Personal Data outside of the European Economic Area and/or the United Kingdom unless the following conditions are fulfilled:
 - i. Customer or QCS has provided appropriate safeguards in relation to the transfer;
 - ii. the relevant data subjects have enforceable rights and effective legal remedies;
 - iii. QCS complies with its obligations under Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - iv. QCS complies with reasonable instructions notified to it in advance by Customer with respect to the processing of the Personal Data;
 - (c) assist Customer in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - (d) notify Customer without undue delay on becoming aware of a Personal Data breach;
 - (e) at the written direction of Customer, delete or return Personal Data and copies thereof to Customer on termination of the agreement unless required by Applicable Law to store the Personal Data;
 - (f) maintain complete and accurate records and information to demonstrate its compliance with this Schedule 2;
 - (g) ensure that all persons authorised to process any Personal Data is subject to appropriate confidentiality restrictions;
2. Each party shall ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).
3. Customer consents to QCS' use of sub-processors engaged in the processing of the Personal Data by way of a general authorisation in respect of all sub-processors as at the date of the Contract. QCS shall, upon request of Customer, make available to Customer a list of its current sub-processors as well as a mechanism for Customer to receive notifications of changes to its sub-processors to give Customer an opportunity to object to such change. Customer must notify QCS if it does not agree to a proposed change that affects Customer within 30 days of such written notice, specifying its grounds for such

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objection (acting reasonably). If QCS receives such an objection, then QCS may (at its option):

- (a) cancel its plans to change the affected sub-processor;
- (b) offer an alternative which is acceptable to Customer; or
- (c) take corrective steps to remove the objection identified by Customer, after which QCS may proceed with appointing the relevant sub-processor.

4. QCS shall only appoint a sub-processor engaged in the processing of the Personal Data on the basis of a binding written contract imposing materially equivalent obligations upon the sub-processor in relation to the processing of Personal Data as are applicable to QCS under the Contract, and shall remain liable to Customer (subject to the provisions of this Contract) to the extent that such sub-processor fails to comply with such equivalent provisions in relation to the processing of Personal Data on Customer's behalf.
5. QCS may, at any time on not less than 30 days' notice, revise this Schedule 2 as may be required by Data Protection Legislation.