

QWARIE LTD FRAMEWORK CONTRACT

FOR THE SUPPLY OF mSIS

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1. Introduction

- (a)** This Framework Contract shall set out the Terms and Conditions pertaining to the supply of Accounts for the commercial use of the Application.
- (b)** The Application shall be a Multi-Source Investigation Solution software application, branded with the acronym “mSIS”, that shall be developed, owned and distributed by the Supplier.
- (c)** The mSIS product suite shall include mSIS LE, mSIS CORE, mSIS LITE, mSIS EDIT and mSIS READ. For details of the mSIS product suite, go to <https://msis.app/>
- (d)** This Framework Contract shall be provided by the Supplier, in advance of the Parties entering into any agreement, so that the Customer shall have the opportunity to read, understand and accept the Terms and Conditions where this Framework Contract shall be the binding contract, and;
- (e)** where the Parties might elect to enter into a specific Service Contract, so that;
- (i)** the Customer might understand the Terms and Conditions of the Supplier, that shall be applied to any Service Contract, that;
 - (ii)** within this Framework Contract, shall be the sections that shall commence with, or shall include, the words, 'within the Contract', and;
 - (iii)** so that the Parties shall have the opportunity to negotiate and create a Service Contract that shall satisfy the requirements of both Parties, and so that;
- (f)** where an Order for an Account shall be made within this Framework Contract, the Order and its Terms and Conditions shall be governed by this Framework Contract, and;
- (g)** where an Order for an Account shall be set out in a specific Service Contract, that Order shall be governed by the Service Contract.
- (h)** In a Service Contract, the Parties may agree to a variation of one or more Terms and Conditions of this Framework Contract. See section 5 of this Framework Contract.

2. Definitions

In this Framework Contract, the following definitions shall apply:-

Account: an instrument that allows the User to benefit from the Application.

Application: see clause 1.1(b) of this Framework Contract.

Confidential Information: see section 10 of this Framework Contract.

Contract (The): the prevalent Contract, that shall be this Framework Contract, where there shall be no Service Contract.

CRM: Customer Relationship Management system. An on-line environment, provided by the Supplier, where the Customer shall benefit from password protected access for the management of Accounts.

Customer: a legal entity with whom the Supplier negotiates and with whom the Supplier might contract to supply Accounts for the commercial use of the Application.

Disclosing Party: a Party, and its employees, within this Framework Contract that shall disclose Confidential Information to the other Party to this Framework Contract.

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Due Date: date by which the Customer shall be obliged to have made payment.

Fee: a charge payable by the Customer to the Supplier, in consideration for supplementary/additional services regarding the supply of Accounts;

Form-mail: a Notice composed by the Customer in the CRM or website of the Supplier and conveyed by electronic mail to the Supplier.

Framework Contract: this document, identified by version number, with its Terms and Conditions.

Intellectual Property Rights: see section 9 of this Framework Contract.

Notice: see section 18 of this Framework Contract.

Offer: a Notice sent by the Supplier, to the Customer, with Terms and Conditions for the supply of Accounts.

Order: a Notice of acceptance, composed by the Customer, and received by the Supplier.

Party: the Supplier, the Customer, their associated employees and companies, and Third Parties.

Price: a charge payable by the Customer to the Supplier, in consideration for the supply of Accounts.

Receiving Party: a Party, and its employees and Third Parties, within this Framework Contract that receives a Notice and specifically, Confidential Information, from the other Party to this Framework Contract, including from its employees, associated companies and Third Parties.

Recommendation, (Notice of): see sub-section 5.1 of this Framework Contract.

Service Contract: see section 5 of this Framework Contract.

Supplier (The): the supplier of the Application; Qwarie Ltd. Rumwell Hall, Rumwell, Taunton, Somerset, TA4 1EL with Company registration in England & Wales number 10113351.

Terms and Conditions: shall be a phrase as set out in this Framework Contract, and shall not relate to any term or condition of the Customer.

Third Party: any outside Party, employee of an associated company, contractor or consultant whom the Supplier may engage to deliver or assist in the delivery of the Application to the Customer.

User: an individual designated by the Customer, who shall be assigned the right to access the Application by way of a login.

Validity: term for which an Offer is valid, so that the Customer might place an Order, within the term specified in the Offer.

3. Interpretation

3.1 Context

Within the Contract:-

(a) reference to a Party shall include its personal representatives, successors or permitted assignees;

(b) reference to a regulation, statute or statutory provision shall be a reference to such regulation, statute or statutory provision as amended or re-enacted, so that;

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- (i)** a reference to a regulation, statute or statutory provision shall include any subordinate legislation made under that regulation, statute or statutory provision, as amended or re-enacted;
- (c)** any phrase in the Framework Contract that shall be '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, and;
- (d)** a reference to 'writing' or 'written' shall include messaging applications, Short Message Service (SMS), e-mail and form-mail;
- (e)** a word in the body of a clause, where the first character shall be capitalised and where the word may or may not begin a sentence, shall be a defined word. See section 2 of this Framework Contract.
- (f)** words imparting the singular quantity shall include the plural and vice versa;
- (g)** the headings used in this Framework Contract shall be for convenience only, and shall have no effect upon the interpretation of the Contract.
- (h)** A legal entity shall include a natural person, corporate or unincorporated body (whether or not having separate legal personality).

3.2 Legal Basis

Within the Contract:-

- (a)** By placing an Order for the Application, from the Supplier, the Customer shall warrant that it has the legal entitlement to enter into a binding Contract, be that as an individual person, or on behalf of a legal entity.
- (b)** When using the Application, the Customer shall comply with all applicable laws of England and Wales and with any applicable international laws, including the local laws in the country of registration of the Customer.

3.3 Prevalence of the Contract of the Supplier

- (a)** The Customer shall acknowledge that, where the Customer shall place an Order to purchase an Account, the Terms and Conditions of the Supplier, as set out within this Framework Contract, shall prevail over any term or condition that might be imposed by the Customer through a contract or any other Notice, unless;
- (b)** the Parties might have entered into a separate Service Contract. See section 5 of this Framework Contract.
- (c)** The Terms and Conditions within this Framework Contract shall apply to the exclusion of any other terms and conditions that the Customer might seek to impose or incorporate, or which might be implied by trade, custom, practice or course of dealing, unless agreed by variation and in writing within a separate Service Contract.
- (d)** The Customer shall have no right to make an Offer or a counter Offer.

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(e) Where the Customer might seek to propose a variation to the Terms and Conditions of the Supplier, the Parties shall negotiate and create a Service Contract. See section 5 of this Framework Contract.

(f) The Supplier shall reserve the right amend an Offer, so that it might comply with any variation proposed by the Customer.

(g) Where no separate and explicit Service Contract shall be created by the Parties, this Framework Contract shall be the governing agreement.

3.4 Specificity of the Contract

(a) Where the Customer might have, in place, a specific agreement or Service Contract for other services provided by the Supplier, the Customer shall acknowledge that for any instances of the supply of the Application, and/or;

(i) where there might be a conflict of terms and conditions, the Terms and Conditions of this Framework Contract or any specific Service Contract shall apply for the supply of the Application.

(b) Any sample information, images, descriptive matter or promotional material that the Supplier might issue, including any descriptions or images contained in the website of the Supplier, shall be issued or published for the sole purpose of giving an approximate idea of the Application and any service described therein, and;

(i) shall not form part of this Framework Contract or have any contractual force.

4. Formation of the Contract

Within the Contract:-

4.1. Supplier advertising and a Customer request for the Application

(a) Where the Supplier shall make an Offer by word of mouth or through advertising material, the Offer shall not be legally binding upon the Supplier.

(b) Where the Customer shall send, to the Supplier, a request for the Supplier to supply the Application, this shall be an Invitation to Treat.

(c) An Invitation to treat shall not be binding upon the Supplier.

4.2. Contractual Components

(a) A separate Service Contract might not rely on any other document.

(b) Where the Terms and Conditions in this Framework Contract shall satisfy the Customer, there shall be no requirement for a Service Contract, and;

(i) the entire agreement shall be set out in section 24 of this Framework Contract.

4.3. The Offer made by the Supplier

- (a) The Offer shall be a Notice composed by the Supplier.
- (b) The Offer shall display on the website of the Supplier.
- (c) The Offer price shall not include Value Added Tax, unless explicitly stated within the Offer.
- (d) An Offer might be revised or superseded by a subsequent Offer.
- (e) Where clause 4.3(d) of this Framework Contract shall apply, the previous Offer, or the superseded part thereof, shall be void.

4.4. Special Offers made by the Supplier

- (a) The Supplier might make available, to the Customer, a special Offer.
- (b) Each special Offer shall be detailed on the website of the Supplier.
- (c) A special Offer shall be valid for a limited term.
- (d) A special Offer might include mSIS training.

4.5. The Order made by the Customer

- (a) The Order shall be acceptance, by the Customer, of the Offer of the Supplier.
- (b) The Order shall be a Notice of acceptance, raised by the Customer and received by the Supplier.
- (c) Any Order placed by the Customer shall be conditional, where;
 - (i) it shall be the policy of the Customer for a Supplier to be registered within the internal Supplier registration system of the Customer, and;
 - (ii) where it shall be the policy of the Customer to issue a Purchase Order number, so that;
 - (iii) the Purchase Order number shall be received by the Supplier.
- (d) An Order shall be legitimate where free of other Terms or Conditions, and received and confirmed by the Supplier.
- (e) The fundamental Terms and Conditions of the Order may not vary from those set out in the Offer or within this Framework Contract, unless where specified in a Service Contract.
- (f) The Supplier shall have the right to reject an Order where the Customer might have applied a new condition or term, or a variation of a Term or Condition set out in the Offer, or in this Framework Contract, and;
- (g) where the Supplier shall receive, from the Customer, a Notice that purports to be an Offer, that Notice, within the conditions of this Framework Contract, shall be an Order that might include a variation, and the Supplier shall have the right to vary the original Offer.
- (h) The Customer shall have no right to accept some parts of this Framework Contract and reject, or not comply with, any other part.

4.6. Acceptance by the Customer

- (a)** Where the Supplier shall receive an Order, or other Notice of acceptance, from the Customer, that shall vary from the Offer of the Supplier, the Parties shall have the opportunity to enter into a Service Contract, so that;
- (b)** where the opportunity to enter into a Service Contract shall not be taken, the Terms and Conditions of this Framework Contract, shall form the agreement between the Parties.
- (c)** Where no Service Contract shall be agreed, and the Supplier shall receive, from the Customer, an Order, or other Notice of Acceptance that shall comply with the Offer of the Supplier, the Customer shall accept all the Terms and Conditions of this Framework Contract, so that;
- (d)** acceptance on the part of the Customer shall be a declaration of agreement with all the Terms and Conditions within this Framework Contract, and that;
- (e)** the Customer shall acknowledge that it has not relied on any statement, promise or representation made or given by, or on behalf of, the Supplier, which might not be set out in this Framework Contract.
- (f)** The Customer shall agree to be bound by the Terms and Conditions of this Framework Contract, and that;
- (g)** partial Acceptance, on the part of the Customer, shall constitute full and binding acceptance of all Terms and Conditions within this Framework Contract.

4.7. Agreement between the Parties

Within the Contract:-

- (a)** Agreement between the Parties shall be reached upon receipt of the Order of the Customer, by the Supplier, and where the Order has not deviated from the Offer and shall not be subject to any condition as set out in clause 4.5(b) of this Framework Contract.
- (b)** Where a variation from this Framework Contract shall be agreed between the Parties, a Service Contract shall be raised that shall set out the terms and conditions negotiated between the Parties.
- (c)** Where no Service Contract shall be required, this Framework Contract, the Offer, the Order, any relevant Notice and the Invoice of the Supplier shall form the entire agreement between the Parties.

5. The Service Contract

- (a)** A specific Contract that might be raised between the Supplier and the Customer, where the terms and conditions shall vary from this Framework Contract.
- (b)** A Service Contract shall set out the price, quantity and any term or condition negotiated between the Parties for the supply of Accounts.
- (c)** Any clause in this Framework Contract that shall be referenced by 'the Contract' or 'within the Contract', shall apply to a Service Contract, unless;

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(i) the Customer shall have the right to negotiate a Service Contract, but only for the future supply of services;

(d) Any Service Contract shall explicitly state a variation of the term or condition.

5.1. Notice of Recommendation

(a) A Notice sent by either Party to the other Party that might recommend, and might request that the Parties enter into a negotiation to form a separate Service Contract.

(b) After a term of 10 business days, from the remission of the Notice of Recommendation;

(i) where the sending Party has not received, from the other Party, any acceptance of the Recommendation, or other indication that might demonstrate an intent to negotiate a Service Contract, so that;

(ii) any subsequent contract between the Parties shall be governed by this Framework Contract, and therefore;

(iii) the Customer shall have the right to negotiate a Service Contract, but only for the future supply of services.

5.2. Negotiating a Service Contract

(a) Within a Service Contract, the Parties might agree a variation on the quantity, price, and term, be that fixed or recurring, for the supply of Accounts.

(b) The Customer shall have the right to declare that it shall seek to enter into a specific Service Contract with the Supplier.

(c) Where the Supplier shall receive, from the Customer, its terms and conditions, this shall not be a Notice of Recommendation, and;

(i) receipt, by the Supplier, of the terms and conditions of the Customer shall not signify the formation of a Service Contract, and;

(ii) receipt, by the Supplier, of the terms and conditions of the Customer shall not indicate, on the part of the Customer, an intention to negotiate a Service Contract.

(d) In no circumstance shall the Supplier be bound, under this Framework Contract, by any unilateral term or condition of the Customer, so that;

(e) where the Customer has received, from the Supplier, a Notice of Recommendation, and;

(i) after a term of 10 business days, there shall be no evidence that the Customer shall negotiate a separate Service Contract, however;

(ii) where the Customer might expect its terms and conditions to be accepted, because that might be its policy that might be required of its suppliers;

(iii) the Supplier shall have the right to indicate, on a form or other Notice, composed by the Customer, that the Supplier shall agree to the terms and conditions of the Customer, so that;

- (iv) the Customer might be allowed to overcome any procedural obstruction that might be denying its opportunity to benefit from the Application, and where;
- (v) the Customer shall understand that, in fact, the Supplier shall not be bound by any term or condition set out by the Customer, for the two simple reasons, that;
- (vi) the Supplier has set out its Terms and Conditions, and communicated this Framework Contract to the Customer, prior to receipt, from the Customer of any Order or term or condition set out by the Customer, and;
- (vii) the Supplier shall provide, to the Customer, the Accounts , and shall have the absolute right to receive compliance with all of its Terms and Conditions, as set out in this Framework Contract, unless there shall be a separate Service Contract, so that;
- (viii) where there shall be no Service Contract, the Parties shall be bound by this Framework Contract and the other Notices set out in section 24 of this Framework Contract.

6. Rights & Obligations of the Supplier

6.1. Supplier Rights

Within the Contract, the Supplier shall reserve the right to:-

- (a) enhance or upgrade the Application without Notice;
- (b) negotiate with the Customer, the billing term for the supply of Accounts;
- (c) invoice the Customer, under this Framework Contract, for the quantity of Accounts ordered by the Customer;
- (d) receive payment from the Customer, within the agreed term, for the delivery of any Order, placed by the Customer;
- (e) receive payment in advance for the supply of Accounts;
- (f) to receive payment of an invoice by means of electronic transfer;
- (g) increase the Price, where any enhancement or any upgrade to the Application has been delivered;
- (h) exclusively, to make an Offer;
- (i) reject an Order by the Customer;
- (j) to acquire and store statistics relating only to the Customer login activity and access to the digital tutorial material of the Supplier;
- (k) to either implement or deny any enhancement or recommendation made by the Customer;
- (l) to assign Customer integration support to a Third Party;
- (m) to levy an hourly Fee for Customer integration support;

6.2. Supplier Obligations

Within the Contract, the Supplier shall be obliged to:-

- (a) supply the Application, to the Customer, in accordance with the Contract in all material respects;
- (b) supply the Application for the benefit of the Customer, where the Customer has accepted the Terms and Conditions of the Contract;
- (c) publish the compliance documentation and abide by that documentation for the term of the Contract;
- (d) abide by a price structure agreed within the term of a Service Contract;
- (e) provide tutorial material in video format and;
- (f) provide Customer integration support;
- (g) indemnify the Customer (See section 13 of this Framework Contract);
- (h) resolve, as a priority, any technical issues that may arise in the Application.

7. Rights & Obligations of the Customer

7.1. Customer Rights

Within the Contract, the Customer shall have the right to:-

- (a) negotiate with the Supplier, a Service Contract that may vary from this Framework Contract;
- (b) receive and benefit from the Application, as set out in the Contract;
- (c) purchase multiple Accounts in one Order;
- (d) negotiate the provision of multiple Accounts;
- (e) negotiate the billing term for the supply of multiple Accounts;
- (f) security and privacy of its data, excepting clause 6.1.(j) of this Framework Contract;
- (g) request enhancements or upgrades to the Application;
- (h) benefit from the tutorial material provided by the Supplier;
- (i) benefit from Customer integration support, that shall incur an hourly Fee;

7.2. Customer Obligations

Within the Contract the Customer shall be obliged to:-

- (a) enter into a negotiation to agree a Service Contract with the Supplier, where required and in a timely manner;
- (b) provide a named single point of contact with oversight of, and responsibility for, the entire relationship between the Supplier and the Customer;

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- (c)** ensure that the named single point of contact shall co-operate with the Supplier in all matters relating to the Application and the provision of Accounts.
- (d)** register the Supplier on the Supplier registration system of the Customer, so that;
 - (i)** any Order placed by the Customer shall no longer be conditional.
- (e)** provide a Purchase Order number, where it shall be the policy of the Customer to do so, so that;
 - (i)** any Order placed by the Customer shall no longer be conditional;
- (f)** comply with the payment terms set out in the Contract;
- (g)** assign an Account to only one User;
- (h)** provide adequate resources to install and benefit from the Application;
- (i)** accept that the Supplier shall acquire and store statistics relating only to the Customer login activity and access to the tutorial material of the Supplier;
- (j)** notify the Supplier of any 'bug' or technical issue in the Application;
- (k)** publish its data protection compliance policy, and;
 - (i)** abide by that policy for the term of the Contract;
- (l)** maintain the confidentiality of the terms and conditions of the Contract. See section 10 of this Framework Contract;
- (m)** refrain from any action that would diminish the rights, title and interest of the Supplier in and to the Application;
- (n)** notify the Supplier of any attempt to disrupt the code of the Application;
- (o)** not reverse engineer, decompile, disassemble or create derivative works of the Application;
- (p)** not reproduce or redistribute the Application for any and all reasons;
- (q)** not rent or lease the Application to any other individual or entity for any and all reasons;
- (r)** supply a reference for the Application, and for the Supplier company, where requested to do so by the Supplier.

8. Consideration: Prices and Payment Terms

8.1. Price

- (a)** The Price for the Supply of Accounts shall be set out in the Offer of the Supplier.

8.2. Payment Terms

- (a)** Prior to delivery of any Accounts, the Supplier shall raise and remit to the Customer an invoice.
- (b)** The invoice of the Supplier shall specify the payment Due Date, as negotiated between the Parties.

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(c) The Customer shall pay to the Supplier, the Price agreed between the Parties, with-in the specified payment term, prior to the provision of any Accounts by the Supplier.

(d) Where any payment within the Contract shall be required to be made on a day, that might not be a business day, the invoice payment date shall be the previous business day.

(e) The payment term shall be of the essence to the Contract.

8.3. Payment Conditions

Within the Contract:-

(a) it shall be a fundamental condition of the Contract that the Customer shall settle each invoice raised by the Supplier within the specified term;

(b) the Customer shall pay to the Supplier, all amounts due under the Contract and all specific Orders, in full, and without any deduction or withholding, except as required by law;

(c) the Customer shall not be entitled to assert any credit, set-off or counter-claim against the Supplier, in order to justify withholding payment of any such amount in whole or in part;

(d) the Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount transferred by the Supplier to the Customer;

(e) payment shall be settled only by means of electronic transfer, to the bank account of the Supplier nominated in the invoice of the Supplier or in a Service Contract.

8.3.1. Payment by Electronic Transfer

Within the Contract:-

(a) the Customer shall instruct its banking service supplier to make payment to the Supplier by means of electronic transfer;

(b) each Party to the Contract shall pay for any costs raised by their banking service supplier;

(c) recurring payments shall be made on the same calendar day of each month as set out in the Contract;

(d) cleared funds shall arrive into the bank account, nominated by the Supplier, on or before the Due Date on the invoice;

(e) where the electronic transfer shall not be 'same day', the Customer shall instruct its bank to make payment a sufficient quantity of days ahead of the Due Date, so that;

(f) funds shall be cleared in the bank account of the Supplier on the Due Date.

8.4 Late or Reduced Payment

Within the Contract:-

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(a) without limiting any other right or remedy of the Supplier, where the Customer shall fail to make the full payment that shall be due to the Supplier under the Contract, by the Due Date for payment, the Supplier shall have the right:-

- (i)** where no payment shall be received, to suspend the Account, and;
- (ii)** where part payment might be received, to reduce the quantity of accessible Accounts, pro-rata and at its sole discretion.

9. Intellectual Property Rights

Within the Contract:-

(a) all Intellectual Property Rights of the Application and any digital materials created by, or on behalf of the Supplier, shall be owned by the Supplier and shall be protected by the laws of copyright and trademarks;

(b) Intellectual Property Rights shall include all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

(c) the Customer shall not remove any product identification, copyright Notices or proprietary restrictions from the Application;

(d) the Customer shall not make available to any other Party any Intellectual Property that shall relate to the Application, and;

- (i)** where the Customer shall not comply with this condition, the Customer shall be in breach of the Confidentiality clause of the Contract, and shall liable to pay to the Supplier substantial damages of no less than £10 million pounds;

(e) the Intellectual Property section 9 of this Framework Contract, shall survive termination of the Contract.

10. Confidentiality

Within the Contract:-

(a) both Parties to the Contract shall respect, acknowledge and agree that any and all information communicated, shall be Confidential Information;

(b) Confidential Information shall be any information, relating to the technical functionality and features of the Application and to the business of the Customer and the Supplier or to any Third Party of a personal, corporate or technical nature, whether it shall be received, accessed or viewed in writing, visually, electronically or spoken and heard;

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(c) the Parties shall agree that there shall be no duplication or disclosure of any such Confidential Information to any person, except where;

(i) the other person might be an own employee or associated company, where the same shall require such information for the performance of any service, unless;

(ii) such duplication or disclosure shall be specifically authorised by the other Party or shall be required by the operation of the prevailing legislation;

(d) Confidential Information shall not include information, which at the time of disclosure shall be, or shall come into the public domain, other than by the unauthorised act of the Disclosing Party;

(e) both Parties shall take all reasonable steps to ensure that its employees, and employees of any associated company, shall maintain, with no limitation, the confidence of all Confidential Information;

(f) specifically, the Parties shall restrict disclosure of such Confidential Information to its employees, and employees within associated companies, as 'need to know', for the purpose of discharging their obligations under the Contract, and shall ensure that such employees, and employees within associate companies, shall be subject to obligations of confidentiality;

(g) the Customer shall have no right to publicise the use of the Application of the Supplier unless agreed in writing with the Supplier;

(h) the Supplier shall have no right to publicise a relationship with the Customer, unless agreed in writing by both Parties;

(i) the Confidentiality section 10 of this Framework Contract and any corresponding Service Contract, shall survive termination of the Contract.

11. Warrants

Within the Contract, the Supplier shall warrant that:-

(a) login to the Application shall transfer no material data to the server of the Supplier, other than a token, that shall authenticate the User, and that;

(b) no data relating to any case or other research performed by the Customer, shall be transferred to the Supplier, so that;

(c) all data relevant to any case or other research shall be saved only to the chosen hard drive of the User, and that;

(d) no research data or activity, that shall be the property of the Customer, shall transfer to a server or any other asset in the control of the Supplier or any other Party, so that;

(e) all research data and activity shall be the confidential material of the Customer.

12. Disclaimer of Warranties and Limitation of Liability

Within the Contract:-

Registered Office: Rumwell Hall, Rumwell, Taunton,
Somerset TA4 1 EL, UK (England)

Company Registration: Qwarie Ltd 10113351

VAT Registration: 256553095

ICO Reference: A8124343

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(a) to the maximum extent permitted by applicable law, the Supplier shall provide the Application “as is”, and hereby shall disclaim all other warranties and conditions, either express, implied, or statutory, including, but not limited to, warranties of title and non-infringement, any implied warranties, duties or conditions of merchantability, of fitness for a particular purpose, and of lack of viruses all with regard to the Application;

(b) in no event shall the Supplier provide any warranty with respect to any Third Party hardware or software or any third party technology, solution, media platform or other data supplier, with which the Application might be designed to be used, and the Supplier shall disclaim all liability with respect to any failure thereof;

(c) to the maximum extent permitted by applicable law, in no event shall the Supplier or its suppliers be liable for any special, incidental, indirect, or consequential damages whatsoever, including, but not limited to, damages for loss of profits, for loss of reputation, for failed litigation or criminal prosecution, for failure of or disruption to process, for loss of data or other information, for business interruption, for personal injury or financial loss, for loss of privacy arising out of or in any way related to the use of, or inability to use or benefit from the Application, even where the Supplier or any Third Party has been notified of the possibility of such damages and even where any remedy might fail in its essential purpose;

(d) the Disclaimer of Warranties and Limitation of Liability section 12 of this Framework Contract and any corresponding section in a Service Contract, shall survive termination of the Contract.

13. Indemnity and Insurance

Within the Contract:-

(a) the Supplier shall ensure that it shall have in place at all times suitable and valid insurance that shall cover the delivery of the Application by the Supplier, so that:-

(i) public liability insurance shall indemnify the Supplier up to a value of £5,000,000, and;

(ii) professional liability insurance shall indemnify the Supplier up to a value of £2,000,000.

(b) the policy shall indemnify the Supplier for the activity of any Third Party or associate company delivering the Application on behalf of the Supplier;

(c) the Insurance section 13 of this Framework Contract and any corresponding section of a Service Contract, shall survive termination of the Contract.

14. Default, Cancellation and Termination

14.1 Default

Within the Contract:-

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- (a)** where the Customer shall default on payment, the Supplier shall deny access, pro-rata, with immediate effect;
- (b)** subsequently, where payment shall be received by the Supplier, Accounts shall be reactivated in compliance with the recurring term;
- (c)** the Customer shall receive no benefit from a late payment, and;
- (d)** the recurring payment date set out in the Contract shall remain in force for all subsequent payments.

14.2 Cancellation

Within the Contract:-

- (a)** where the Customer shall cancel a monthly recurring term contract, the Customer shall receive no refund on any outstanding monthly term;
- (b)** where the Customer shall cancel a fixed term within a Service Contract, the Customer may, at the discretion of the Supplier, be refunded for the value of any outstanding term, with an excess of 30 days, of the date of termination of the Contact.

14.3 Termination

Within the Contract:-

- (a)** where one Party shall commit a material breach of the Contract, the other Party, without limiting its other rights or remedies, may terminate the Contract with immediate effect, by written Notice to the Party in breach;
- (b)** where it might be possible to remedy the breach, the Party in breach shall have 28 days in which to furnish the remedy and during this term, the termination shall be set aside, except;
 - (i)** where the Supplier shall have the right to suspend the Account.
- (c)** where the remedy shall fail, the termination of the Contract shall be enforceable from the date and time of the original Notice of termination;
- (d)** without limiting its other rights or remedies, each Party shall have the right to terminate the Contract by giving the other Party a written Notice;
- (e)** without limiting its other rights or remedies, the Supplier shall have the right to suspend or terminate performance of the Contract, where the Customer shall fail to meet the obligations set out in sub-section 7.2 of this Framework Contract or any corresponding section in a Service Contract.

15. Consequences of Termination

Within the Contract and on termination of the Contract for any reason:-

- (a)** the accrued rights, remedies, obligations and liabilities of the Parties, at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which might have existed at or before the date of termination or expiration, and;
- (b)** clauses which is expressly, or is by implication, shall have an effect after termination of the Contract shall continue in full force and effect until such time as satisfactorily discharged.

16. Force Majeure

Within the Contract:-

- (a)** the Supplier shall be entitled to delay or cancel delivery of the Application or to reduce the amount delivered, where it shall be prevented from, or hindered or delayed in the provision of the Application, through any circumstances beyond its reasonable control; including strike, lock-out or other industrial dispute (whether involving the workforce of the Supplier or any other Party), accident, war or threat of war, government agency action, compliance with any law or governmental order, rule, regulation or direction, national emergency, act of terrorism, threat of terrorism, protest, riot, civil commotion, malicious damage, explosion, flood, epidemic, fire, storm, earthquake, tsunami, wrongful arrest, failure of a dependent Third Party application, failure of a utility service, including internet access or transport network, breakdown of plant or machinery or default of its Third Parties;
- (b)** concerning the matter of internet access, the Supplier shall be obliged to maintain at least two independent supply contracts for internet access for the purposes of delivering the Application and any support service;
- (c)** the Supplier may claim relief from liability for failure to meet its obligations under the Contract for as long as, and to the extent that, the performance of those obligations shall be directly affected, by a force majeure event;
- (d)** where a force majeure event shall prevent the Supplier from providing the Application and any Account, the Supplier shall, without limiting its other rights or remedies, have the right to suspend or terminate the Contract immediately, by any voice communication, messaging service or any other written Notice to the Customer, whether direct or indirect.

17. Assignment and Subcontracting

Within the Contract:-

- (a)** the Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner, with all or any of its rights under the Contract, and may subcontract or delegate in any manner, any or all of its obligations under the Contract to any Third Party;

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(b) the Customer shall not assign any Account to any other entity or individual;

(c) the Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract or deal in any other manner, all or any of its rights or obligations under the Contract.

18. Notices

Within the Contract:-

(a) any Notice that shall be an Order for an Account and/or other communication remitted to a Party under, or in connection with the Contract shall be in writing and shall be delivered to the other Party by e-mail, or through the CRM of the Supplier;

(b) where a document might be uploaded to the CRM of the Supplier, the other Party shall notify the recipient of the upload, by e-mail or another method, that shall receive acknowledgement by the recipient, to the sender;

(c) where transmitted by e-mail, a communication shall be deemed to have been duly received where there shall be no delivery error message or bounce back from the mail server of the sender or of the recipient;

(d) the sender of an e-mail message shall not rely on a delivery receipt, or any other successful transmission report;

(e) where time shall not be of the essence, the Parties shall have the right to communicate by courier or other recognised postal service, to the principal place of business of the Receiving Party;

(f) notifications and other communications sent by courier or pre-paid postal service shall be deemed to have been fully received when delivered to the registered address, trading address or other specified mailing address of the other Party;

(g) where a Notice or other communication shall be served in person, by a Party, service shall be to the registered or other trading address of the Receiving Party;

(h) for the purposes of this clause, "writing" shall include e-mails and, for the avoidance of doubt, Notice given under the Contract shall be validly served where sent by e-mail;

(i) a Notice may be signed by an authorised person and, where an e-mail or other document, including this Framework Contract and a Service Contract may not be signed, it shall possess legal authority by its very existence and shall be considered as effective communication to the other Party, particularly by way of an URL to the document, provided on an internet or intranet website.

(j) this section 18 shall not apply to the service of any proceedings or other documents, in any legal action;

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19. Waiver

Within the Contract:-

- (a)** a waiver of any right under the Contract shall only be effective where it shall be in writing;
- (b)** a waiver shall not be applied to any subsequent breach or default;
- (c)** no failure or delay by either Party, in exercising any right or remedy under the Contract, or by law, shall constitute a waiver of this section 19, or of any other right or remedy, nor shall it preclude or restrict its further exercise;
- (d)** no single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy;
- (e)** unless specifically provided otherwise, rights arising under the Contract shall be cumulative and shall not exclude rights provided by law in the jurisdiction of the Customer.

20. Severance

Within the Contract:-

- (a)** where a court or any other competent authority shall find that any provision of the Contract (or part of any provision) might be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

21. Relationship between the Parties

Within the Contract:-

- (a)** nothing in the Contract shall be intended to, or shall be deemed to, constitute a partnership or joint venture, of any kind, between any of the Parties, nor constitute any Party as the agent of another Party, for any purpose;
- (b)** no Party shall have authority to act as agent for, or to bind, the other Party in any way other than those explicit in the Contract;
- (c)** the Supplier shall have the right to engage a Third Party to represent the Supplier and to invite the Customer to treat.

22. Third Parties

Within the Contract:-

- (a)** a person or entity, who shall not be a Party to the Contract, shall not have any rights under or in connection with the Contract;

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- (b)** the Supplier shall have Third Party rights for subcontracts of Customer integration support to another Party as per clause 6.1(l);
- (c)** any act or omission by a Third Party shall, for the purposes of the Contract, be deemed to be an act or omission of the Supplier;
- (d)** no part of the Contract shall be intended to confer rights on any Third Party and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Contract.

23. Variation & Versioning

- (a)** The Supplier may at any time, make any variation to this Framework Contract, including the introduction of any additional Terms and Conditions.
- (b)** The variation shall incur a version number that shall reflect the magnitude of the variation.
- (c)** Where there shall be a variation to the material or meaning of this Framework Contract, the version shall incur a prime number change.
- (d)** Where a variation shall be a minor correction of syntax, spelling or grammar, with no material effect, the version amendment shall incur a decimal number.
- (e)** A Service Contract shall pertain to the prevailing version of this Framework Contract.
- (f)** The Parties shall agree that a variation to this Framework Contract shall apply to the entire agreement.
- (g)** The Supplier may advise the nominated representative of the Customer of any variation to this Framework Contract and shall make available the current version;
- (h)** Where the Customer has not nominated a representative, the Supplier shall not be obliged to advise the Customer of any variation or new version to this Framework Contract;
- (i)** The Supplier shall publish the current version of this Framework Contract on its website, and;
- (j)** the Supplier shall provide a link to the current version of this Framework Contract in all e-mail communication, so that;
- (k)** the Customer may view the current version of this Framework Contract by following the link in the signature file of any e-mail remitted by the Supplier.

24. Singular & Entire Agreement

- (a)** This Framework Contract shall be the basis for the Contract between the Parties.
- (b)** This Framework Contract, the Offer of the Supplier, the Order of the Customer, any other explicit and written agreement, and any subsequent invoice where combined together, shall constitute the entire agreement between the Parties.
- (c)** In exceptional circumstances, the entire agreement might be published in a single document, that shall be a Service Contract.

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(d) A Service Contract shall not be modified except by an additional instrument, in writing, and with agreement expressed by communication (e-mail) by the duly authorised representative of the Customer.

(e) the Parties acknowledge that the Contract shall not allow either Party to rely on any representation, warranty or other provision, except as expressly provided in the Contract and within any specific Order that is governed by the Contract.

(f) All conditions, warranties or other terms, that are implied by statute or common law, shall be excluded to the fullest extent permitted by law.

25. Enforceability of the Contract

(a) The Contract shall come into force where both Parties sign the Contract, or;

(i) where there might be no signature of either Party, but where;

(ii) the Supplier has remitted this Framework Contract, or any Service Contract, to the Customer, by e-mail or other electronic means.

26. Governing Law, Jurisdiction and Dispute Resolution

(a) This Framework Contract shall be governed by, and construed in accordance with, English law.

(b) The Parties shall acknowledge and agree that 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), shall be governed by the courts of England and Wales.

(c) The jurisdiction of the Contract shall apply to legal entities and naturalised persons in any jurisdiction.

(d) The Parties shall attempt to resolve any dispute arising out of or relating to the Contract, through negotiations between appointed representatives who have the authority to settle such disputes, and;

(e) where negotiations shall fail, the Parties shall engage the services of a Third Party mediator to settle any such disputes through confidential mediation.
