

Terms and Conditions

Acceptance of these Terms and Conditions means that they will apply to the use of the Services and will supersede any terms and conditions previously agreed between QAS and the Client relating to the Services. Unless otherwise agreed in writing between QAS and the Client, any previous pricing agreements with QAS will remain in force.

1. DEFINITIONS

1.1. In these Terms and Conditions the following words and expressions shall have the following meanings:

Word or Expression	Meaning
Additional User	The persons or organisations to whom (in addition to the Client) QAS agrees to supply the Services, QAS Materials, QAS Data and/or Output. End Users shall be authorised by QAS as Additional Users for the purposes of this Agreement;
Additional User Rights	The right of the Client to use and/or make available the Services, QAS Materials, QAS Data and/or the Output to the Additional Users for such Additional Users' internal business purposes and solely for the Permitted Purposes and no other purpose;
Card Payment	The payment by the Client of Charges in cleared funds using the credit or debit card details provided by the Client and accepted by QAS;
CCJ Data	The data in respect of Court Judgements for individuals;
CCJ Purpose	Where the Output is screened by QAS against the CCJ Data in the provision of the Services such Output may only be used by the Client for the suppression of individuals names and addresses in connection with its internal marketing and may not be used either by the Client or by or on behalf of any third party for the purposes of positive target marketing;
Charges	The fees payable (including any MVF) by the Client to QAS for any of the Services and/or Software as set out in the Pricing Schedule or otherwise agreed in writing by the parties which fees if not set out in the Pricing Schedule or otherwise agreed in writing shall be QAS's standard charges applying from time to time for the Services and/or the Software;
Client	The person, firm or company authorised by Registration to use the Services, QAS Materials, QAS Data and/or Output;
Commencement Date	The date on which the Client first uses the Services, unless otherwise agreed in writing by the parties;
Confidential Information	Any and all information relating to the trade secrets, operations, processes, plans, intentions, product information, prices, know-how, designs, customer lists, market opportunities, transactions, affairs and/or business of the parties and/or to their customers, suppliers, clients in or on any medium or format. For the avoidance of doubt QAS Materials, QAS Data and Output and the methods, techniques, know how and ideas used or learned by QAS in providing the Services are the confidential information of QAS;
End User	In the case of a Client authorised to act as a Reseller by QAS a third party who provides the Input Data to the Reseller and to who the Reseller provides the Output following use of the Services;
Equipment	Computer hardware used by the Client in connection with the Services;
QAS	QAS Limited (registered number 2582055) whose registered office is at: Talbot House, Talbot Street, Nottingham, NG80 1TH;

Word or Expression	Meaning
QAS Data	Any data which QAS adds to and/or uses in connection with the Input Data (including without limitation the CCJ Data) and provides to the Client as part of the Services;
QAS Equipment	The computer and communications hardware utilised by QAS in providing the Services;
QAS Materials	Any of the items developed and/or licensed by QAS to the Client in connection with the Services and includes (without limitation) CD-ROMs and Software (including any documentation) but excludes the Output and the QAS Data;
Force Majeure	Any act of government or state, civil commotion, epidemic, fire, flood, industrial action or organised protests by third parties, natural disaster, war, failure of payment systems, damage to or failure of any third party's computer equipment, software or telecommunications systems used to provide the Services or any event beyond the reasonable control of the party claiming to be excused from performance of its obligations;
Initial Term	Any period of time beginning on the Commencement Date (or any earlier date) in respect of which the parties have agreed that the Client shall pay a MVF;
Input Data	The data supplied to QAS by the Client in the agreed format and in relation to which QAS will provide the Services;
Intellectual Property Rights	Copyright, database right, patents, registered and unregistered design rights, registered and unregistered trade marks, and all other industrial, commercial or intellectual property rights existing in any jurisdiction in the world and all the rights to apply for the same;
MVF	Any minimum value (if any) contained in a Pricing Schedule relating to the Client's use of the Services over the Initial Term;
Output	The Input Data as screened, modified, de-duplicated and/or enhanced by the performance of the Services but excludes the Input Data;
Permitted Purposes	<ul style="list-style-type: none"> (i) In respect of the Output screened against CCJ Data, solely for the CCJ Purpose, and (ii) In respect of any and all other QAS Data contained in the Output, the following activities, all solely for the Client (or the End User's) internal marketing purposes: <ul style="list-style-type: none"> a. The screening of Input Data against the QAS Data; b. Any suppression or update (as shall be agreed with QAS); <p>all solely for the Client (or the End User's) internal business purposes;</p>
Personal Data	Shall have the meaning specified in the Data Protection Act 1998;
Pricing Schedule	The schedule (if any) agreed between the parties from time to time containing details of the Client's use of QAS's services which refers to these Terms and Conditions;
Processing	The meaning specified in the Data Protection Act 1998;
Read Group Data	The databases called the "Bereavement Register" and the "Gone Away Suppression File";
Registration	The registration process to be completed to QAS's satisfaction in relation to prospective clients as a pre-condition to the provision of the Services;
Reseller	A Client who is authorised by QAS upon Registration (or thereafter in writing) to provide the Services to End Users in accordance with these

Word or Expression	Meaning
	terms and conditions;
Services	The data management services provided to the Client by QAS subject to these Terms and Conditions;
Software	The QAS suite of programs and/or any other software provided to the Client for use in connection with the Services (including any software accessed on-line or downloaded from the Web Site);
Territory	European Economic Area;
Web Site	The web site(s) via which QAS delivers its data management services and software via the Internet;
Year	Each twelve-month period commencing on the Commencement Date and each anniversary of the Commencement Date.

2. PERIOD OF AGREEMENT

- 2.1. The entitlement of the Client to receive the Services will commence on the Commencement Date and will continue until terminated in accordance with the provisions herein.

3. THE SERVICES

- 3.1. The provision and use of the Services and/or the Software shall be subject to these Terms and Conditions.
- 3.2. QAS reserves the right at any time due to circumstances beyond its reasonable control to vary the nature of the Services.
- 3.3. QAS may, at any time by giving written notice to the Client amend or vary these Terms and Conditions and such amended or varied Terms and Conditions shall apply to the provision of Services after the date of such notice.

4. PAYMENT OF CHARGES

- 4.1. The Client agrees to pay the Charges. Save where the Client makes advance Card Payment QAS shall be entitled to invoice the Client at any time after the end of each calendar month for the Charges incurred by the Client in that calendar month. The Client will make payment of each such invoice within thirty days of the date its receipt of or (if agreed by the parties in writing) by direct debit to QAS's nominated bank account.
- 4.2. If the Client does not make payment of the Charges by the due date QAS shall be entitled by notice in writing to the Client (without prejudice to any other remedies it may have) to charge interest on the amount outstanding at the rate of 2% per annum above Barclays Bank plc base rate for the time being from the date of receipt of the notice until the date on which payment is received by QAS (whether before or after any court judgement).
- 4.3. All sums payable hereunder shall be exclusive of Value Added Tax (and any other duty chargeable in respect thereof) which shall be charged at the rate prevailing from time to time.
- 4.4. If the Client has agreed to pay a MVF for the Services during the Initial Term the Client acknowledges that the level of the Charges will be set according to the level of the MVF. If the Client does not meet the MVF in the Initial Term then QAS shall be entitled to invoice the Client for the difference between the actual Charges payable for the Services taken by the Client during the Initial Term and the MVF

5. LICENCES

- 5.1. QAS hereby grants to the Client from installation of the Software until termination of the Client's entitlement to receive the Services a non-exclusive and (save for the extent permitted for Authorised Users) non-transferable licence to use the Software (in object code form only) in the Territory in accordance with these Terms and Conditions solely on such equipment and at such locations specified in the Pricing Schedule or otherwise agreed in writing or if not set out in the

Pricing Schedule or otherwise agreed in writing on the Equipment (as the case may be) at such locations as agreed with QAS.

- 5.2. The Client hereby grants to QAS a non-exclusive non-transferable licence to use the Input Data for the purposes of providing the Services.

6. USE OF THE QAS MATERIALS

- 6.1. The Client undertakes:

- 6.1.1. Not (save where such restriction contravenes any statute) to copy, reproduce, translate, adapt, vary or modify the QAS Materials nor to disclose communicate or make available the same to any third party without QAS's prior written consent except that the Client may make a copy of the QAS Materials for back up purposes only. In the event that the Client becomes aware of any unauthorised copying disclosure or use it shall forthwith notify QAS thereof and if requested take such steps as shall be necessary to prevent such further unauthorised copying disclosure or use;
- 6.1.2. To maintain accurate and up to date records of the number and location of all copies of the QAS Materials;
- 6.1.3. To supervise and control the use of the QAS Materials in accordance with these Terms and Conditions and to protect the QAS Materials from and against theft destruction or damage;
- 6.1.4. Not to provide or otherwise make available the QAS Materials in whole or in part in any form to any person other than Additional Users (to the extent permitted by these Terms and Conditions) and/or the Client's employees who need to have access to the QAS Materials in order to properly use the Services for the Permitted Purposes;
- 6.1.5. To ensure that the Software is used in the operating environment and in accordance with other operating instructions in each case as reasonably specified by QAS; and
- 6.1.6. To ensure that the Equipment complies with any minimum requirements specified by QAS.

- 6.2. The Client acknowledges that the Software is licensed hereunder for the sole purpose of the Client being able to receive and properly operate the Services for the Permitted Purposes and the Client agrees that it shall only use the Software for such purposes. The Client may use software other than the Software on the Equipment upon which the Software is operating but does so at its own risk. Notwithstanding anything to the contrary contained in these Terms and Conditions QAS insofar as is permissible at law accepts no liability for any loss or damage of any kind whatsoever whether direct indirect and/or consequential caused by the use of software other than the Software on the Equipment.

7. INTELLECTUAL PROPERTY

- 7.1. Title to and all of the Intellectual Property Rights in all reports and information provided to the Client by QAS (including without limitation in the Output, the QAS Data and the QAS Materials) ("the Information") shall at all times remain vested in QAS (or QAS's third party licensors) and the Client shall acquire no proprietary rights whatsoever therein.
- 7.2. Save when authorised to act as a Reseller (or otherwise as agreed by QAS in writing), the Client shall be entitled to use the Information (unless otherwise agreed by QAS in writing) solely for the Permitted Purposes and not for any other purpose. Where the Client is acting as Reseller it shall not be entitled to use the Output for its own purposes and shall only be entitled to deliver the Output to the relevant End User for use by the End User in accordance with the Permitted Purposes.
- 7.3. Subject to Clause 7.4, the client shall not sell, transfer or otherwise make available the Information to any third party (whom is not an End User) without firstly:
 - 7.3.1. Obtaining Experian's written consent; and
 - 7.3.2. Procuring that such third party shall use the Information for the Permitted Purposes only.

- 7.4. Without prejudice to the preceding provisions of this Clause 7, where the Client is authorised to act as a Reseller, the Reseller shall be permitted to disclose the Information to the relevant End User provided always the Reseller shall procure that the End user enters into a binding written agreement with the Reseller which contains provisions that are consistent with Clauses 3, 5, 6, 7, 8, 12, 15, and 25.
- 7.5. Without prejudice to the preceding provisions of this Clause 7 the Client will (save as is required by law):
- 7.5.1. Keep the Information strictly confidential;
 - 7.5.2. Not copy, distribute or commercially exploit the Information other than as expressly permitted by these Terms and Conditions;
 - 7.5.3. Permit access to the Information only to those of its officers or employees who need to know or use the same and ensure that such officers or employees comply with clauses 7.5.1 and 7.5.2.
- 7.6. The Client further undertakes that it shall not use or permit the use of the Services and/or Information by any Additional User or any third party for the purpose of providing credit reference, debt collection, identity authentication, fraud prevention or any other information based services to any third party.

8. SECURITY

- 8.1. The Client will comply fully with all rules and guidelines from time to time reasonably prescribed by QAS in relation to the manner of the provision of the Services for the purposes of ensuring the security of the Services and/or QAS's information and systems generally.
- 8.2. The Client acknowledges and agrees that control of and security of account numbers, identification codes and passwords used to access the Services (collectively the "Client ID") are its sole responsibility and that QAS shall have no liability whatsoever to the Client for any losses (whether direct indirect or consequential) occasioned by use of the Client ID by unauthorised persons. From time to time QAS may issue the Client with new Client ID. Any new Client ID will take effect 24 hours after notice to the Client of the new Client ID.
- 8.3. The Client further agrees that:
- 8.3.1. It will maintain appropriate technical and organisational security measures and procedures to prevent the accidental or unauthorised disclosure of the Client ID or the use of the Client ID by any unauthorised persons;
 - 8.3.2. It will inform QAS immediately on becoming aware of any unauthorised use and/or disclosure of the Client ID, or if any equipment used by the Client to access the Services is stolen;
 - 8.3.3. It remains liable for any and all Charges incurred in connection with usage of the Client ID irrespective of whether such usage is authorised by the Client;
 - 8.3.4. QAS may invalidate or otherwise suspend use of the Client ID if:
 - 8.3.4.1. The Client is in breach of its obligations under these Terms and Conditions; or
 - 8.3.4.2. QAS is notified, or becomes aware, of any unauthorised or improper use of the Client ID by the Client or any third party, or of the fact that any Equipment used to access the Services has been stolen.

9. PERFORMANCE AND LIABILITY

- 9.1. QAS shall use all reasonable skill and care in the provision of the Services.
- 9.2. The Client agrees and acknowledges that the Output is not intended to be used as the sole basis for a business decision of the Client.
- 9.3. QAS shall use all reasonable endeavours to complete the Services and supply the Output to the Client in accordance with any agreed timetable.
- 9.4. If the Client is in breach of its obligations under these Terms and Conditions then QAS shall:
- 9.4.1. Be entitled to reschedule the performance of the Services; and/or

- 9.4.2. Use all reasonable endeavours to supply the Output to the Client but shall have no liability to the Client for any failure to do so; and/or
- 9.4.3. Be entitled to suspend performance of the Services until such time as arrangements have been made to the satisfaction of QAS to remedy the breach. If no such arrangements have been made within 30 days of QAS notifying the Client of the breach, QAS shall be entitled to terminate this Agreement immediately by written notice to the Client. QAS shall have no liability to the Client as a result of such suspension of the Services, or termination of this Agreement.
- 9.5. The Client understands and accepts that the Services involve the use of the QAS Data which is based upon and comprises data provided to QAS by third parties or is otherwise publicly available and QAS is not able to control or verify the accuracy and/or completeness of such data. Accordingly, whilst QAS agrees to use all reasonable care and skill in the collection and collation of the QAS Data it otherwise gives no warranty about the accuracy or fitness for any particular purpose of the QAS Data and in particular accepts no liability for any inaccuracy, incompleteness or other error in the QAS Data which arises as a result of data input provided by the Client or any third party.
- 9.6. The Client acknowledges that:
 - 9.6.1. Methods for the selection of potential customers and existing customers cannot guarantee the response which individuals will make, nor the suitability of those individuals for any products and/or services offered to them;
 - 9.6.2. Systems which use empirical data, statistical data and/or data modelling techniques to provide indicative or predictive data cannot be taken as a guarantee of any particular outcome; and
 - 9.6.3. In the ordinary course of events and by its very nature, the accuracy and utility of the QAS Data and Output will deteriorate rapidly following its delivery to the Client and/or Additional Users.
- 9.7. QAS's liability to the Client in respect of any claim for breach of contract, negligence, breach of statutory duty or under any indemnity or otherwise shall be limited as follows:
 - 9.7.1. In respect of any claim for personal injury or death caused by QAS's negligence or that of its employees, agents or sub-contractors, no limit shall apply;
 - 9.7.2. In respect of other claims for personal injury or death however caused and claims for the damage to or loss of tangible property (excluding claims for loss or corruption of, or damage to, data contained on any tangible media), liability shall be limited to £1 million per claim or series of claims arising from any one incident.
- 9.8. In respect of any other claim, QAS's liability to the Client shall be limited as follows:
 - 9.8.1. For all claims arising in the first Year, liability shall be limited in aggregate to the Charges (excluding VAT) paid or payable in that Year;
 - 9.8.2. For all claims arising in any subsequent Year liability shall be limited in aggregate to the Charges (excluding VAT) paid by the Client to QAS under this Agreement in the previous Year.
- 9.9. The limitations in Clause 9.8 shall not apply to the indemnity under Clause 10.2, 10.3 and 10.4.
- 9.10. QAS shall not be liable for any indirect or consequential loss.
- 9.11. QAS shall not be liable for the following types of financial loss; loss of profits; loss of earnings; loss of business or goodwill; business interruption; even if QAS had notice of the possibility of the Client incurring such losses.
- 9.12. QAS shall not be liable for the following types of anticipated or incidental losses; loss of anticipated savings; increase in bad debt; loss of sales or revenue; failure to reduce bad debt; reduction in the value of an asset; even if QAS had notice of the possibility of the Client incurring such losses.
- 9.13. The Client acknowledges that (unless specifically agreed with the Client in writing) QAS will destroy records relating to the provision of data management services in accordance with its data erasure policy from time to time. The Client further acknowledges that any complaint or enquiry it

may have regarding the performance of the Services may become more difficult to investigate as time elapses following the date of delivery of the Output and agrees that any such complaint or enquiry shall be made to QAS in writing as soon as reasonably practicable and in any event within 30 days of such date.

- 9.14. QAS does not make or include any representations, warranties or guarantees relating to the QAS Materials or the Services other than those specifically contained in this Agreement and hereby excludes to the fullest extent permitted by law all representations, undertakings, terms, warranties, conditions and guarantees (whether express or implied) relating to the QAS Materials or the Services.
- 9.15. The Client agrees and acknowledges that QAS shall have no liability whatsoever to the Client in respect of any claim or claims made by the Client:
- 9.15.1. Arising out of or in connection with any data comprised within the Input Data and/or the Output that was not provided by QAS; and/or
 - 9.15.2. To the extent that such claim or claims arise as a result of the data comprised within the Output having been altered or enhanced by the Client or by any third party; and/or
 - 9.15.3. Arising out of any services undertaken by QAS at the request of the Client which are not agreed to in writing by QAS and the Client.
- 9.16. Risk in the Software shall pass upon receipt of the same by the Client.

10. **THIRD PARTY CLAIMS**

- 10.1. Notwithstanding the provisions of Clause 15 if, as a result of the Client's default (including but not limited to breach of this Agreement, and whether or not the Client acts as a Reseller), a claim is made against QAS by a third party arising from the Processing of Personal Data or the use of any data in connection with this Agreement, the Client shall reimburse QAS for any and all losses, damages, liabilities, claims, demands, costs and expenses suffered or incurred by QAS (including legal expenses reasonably and properly incurred) arising out of such claim (including any claim by a statutory body or authority).
- 10.2. QAS shall fully indemnify the Client against any and all losses, damages, liabilities, claims, demands and expenses suffered or incurred by the Client (including legal expenses reasonably and properly incurred) arising out of any claim brought against the Client by any third party alleging that its Intellectual Property Rights are infringed by provision by QAS to the Client of the QAS Materials or the use of the QAS Materials by the Client as permitted by the terms of this Agreement.
- 10.3. The Client (whether or not acting as a Reseller) shall fully indemnify QAS against any and all losses, costs, damages, liabilities, claims, demands and expenses suffered or incurred by QAS (including legal expenses reasonably and properly incurred) arising out of any claim brought against QAS by any third party alleging that its Intellectual Property Rights are infringed by the use by QAS of any Input Data as permitted by the terms of this Agreement.
- 10.4. Where the Client is acting as a Reseller, the Client shall fully indemnify and keep fully indemnified QAS against all and any actions, proceedings, claims and demands brought against QAS by any End User arising as a result of use of the Services or otherwise. The Client, as Reseller, shall be entitled to bring a claim (subject to Clause 9) against QAS in respect of all losses, liabilities, claims, costs and expenses suffered or incurred by an End User which, for the purposes of this Clause 10.4, shall be deemed to be losses, liabilities, claims, costs and expenses of the Client for the purposes of recovery from QAS.
- 10.5. The indemnities in Clauses 10.2, 10.3 and 10.4 are given on condition that the indemnified party:
- 10.5.1. Notifies the indemnifying party promptly on becoming aware of any matter or claim to which the indemnity might relate;
 - 10.5.2. Does not make any admission or settlement in respect of such matter or claim without the prior consent of the indemnifying party (such consent not to be unreasonably withheld or delayed); and

- 10.5.3. Allows the indemnifying party, where appropriate, to appoint legal advisers of its choice and to conduct and settle negotiations or proceedings relating to such matter or claim and the indemnified party shall comply with the indemnifying party's reasonable requests in the conduct of any such negotiations or proceedings.
- 10.6. If any claims are made, or in QAS's reasonable opinion are likely to be made, by any third party alleging that its Intellectual Property Rights are infringed by the Client's use of the QAS Materials as permitted by the terms of this Agreement, QAS may at its sole option and expense:
- 10.6.1. Procure for the Client the right to continue using the relevant QAS Materials (or any part of them) in accordance with the terms of this Agreement;
- 10.6.2. Modify the relevant QAS Materials to avoid the infringement or replace the relevant QAS Materials with non-infringing materials, whilst still providing the same, or substantially similar, functionality to the infringing materials.
- 10.7. If QAS exercises one of the options set out in Clause 10.6, it shall have no further liability to the indemnified party in respect of a claim relating to the subject matter of Clause 10.1 from the date of completion by QAS of such option.
- 10.8. This Clause 10 sets out the entire liability of both parties and the sole remedy of both parties with respect to the infringement of a third party's Intellectual Property Rights and any claims relating to the indemnity given in Clause 10.

11. QAS'S UNDERTAKING

- 11.1. QAS undertakes that whilst the Client remains entitled to receive the Services if in the reasonable opinion of QAS there is a defect in the QAS Materials which prevents the Client from obtaining the Services then QAS will use all reasonable endeavours to procure the repair of such defect in a reasonable time provided that the Client gives QAS, its agents or subcontractors all reasonable assistance in respect of QAS procuring such repair. This undertaking shall constitute QAS's entire liability in respect of defects in the Software and the undertaking contained above shall not apply to QAS Materials which have been damaged or rendered defective by:
- 11.1.1. The Client's neglect or misuse of the QAS Materials or failure to operate the QAS Materials in accordance with the provisions of Clause 6;
- 11.1.2. The alteration modification or maintenance of the Software and/or QAS Materials by any party other than QAS without QAS's prior written approval;
- 11.1.3. The use of software (or equipment) not provided by QAS or by any computer virus not originating from QAS;
- 11.1.4. The Clients failure to allow QAS or its representatives access to the Software, QAS Materials or the Equipment (as appropriate).
- 11.2. QAS shall be entitled to charge the Client for call out charges and for any work carried out by QAS on the Software and/or QAS Materials where such work is not covered by the undertaking given by QAS in this Clause 11.
- 11.3. QAS further undertakes that, whilst the Client is entitled to receive the Services, it will supply updates to the QAS Data and Software at the times and frequency specified in the Pricing Schedule (if any) or as otherwise agreed by the parties from time to time (which updates shall be deemed to be comprised within the QAS Data and Software for the purposes of these Terms and Conditions).

12. GENERAL CONFIDENTIALITY

- 12.1. Each party shall, in respect of the Confidential Information of which it is the recipient:
- 12.1.1. Keep the Confidential Information strictly confidential and not disclose any part of such Confidential Information to any person except as permitted by or as required for the performance of the recipient's obligations under this Agreement;
- 12.1.2. Take all reasonable steps to prevent unauthorised access to the Confidential Information; and

- 12.1.3. Not use the Confidential Information other than for the purposes set out in this Agreement.
- 12.2. The parties may disclose the Confidential Information to, and allow its use in accordance with this Agreement by, the following (as long as the conditions in Clause 12.3 are met):
 - 12.2.1. Employees and officers of the recipient who necessarily require it as a consequence of the performance of the recipient's obligations under this Agreement;
 - 12.2.2. The recipient's auditors and professional advisors solely for the purposes of providing professional advice and any other persons or bodies having a legal right or duty to have access to, or knowledge of, the Confidential Information in connection with the business of the recipient;
 - 12.2.3. In the case of QAS being the recipient, agents and sub-contractors of QAS who necessarily require it as a consequence of the performance of QAS's obligations under this Agreement, and QAS Group Companies; and
 - 12.2.4. In the case of the Client being the recipient, Additional Users to the extent required to enable such Additional Users to exercise the Additional Users' Rights.
- 12.3. As a condition of the rights set out in Clause 12.2 the party wishing to exercise the rights must:
 - 12.3.1. Ensure that any party to whom it discloses Confidential Information is under an obligation of confidentiality in relation to such Confidential Information; and
 - 12.3.2. Procure that such persons observe the restrictions in this Clause 12.
- 12.4. The restrictions in Clause 12.1 do not apply to any information to the extent that it:
 - 12.4.1. Is or comes within the public domain other than through a breach of Clause 12.1; or
 - 12.4.2. Is in the recipient's possession (with full right to disclose) before receiving it from the other party; or
 - 12.4.3. Is lawfully received from a third party (with full right to disclose); or
 - 12.4.4. Is independently developed by the recipient without access to or use of the Confidential Information.
- 12.5. The Client agrees and acknowledges that if any QAS Materials, QAS Data or Output supplied to the Client comprises information supplied by QAS's third party licensor(s) QAS shall be entitled to disclose to such third party licensor(s):
 - 12.5.1. That such information has been provided to the Client;
 - 12.5.2. The identity of the Client; and
 - 12.5.3. The charges paid by the Client for such information.

13. CLIENT'S GENERAL OBLIGATIONS

- 13.1. The Client shall at its own cost co-operate with QAS to such extent and provide to QAS such information and assistance as QAS shall reasonably require to enable QAS to perform its obligations in relation to the Services.
- 13.2. The Client shall use all reasonable endeavours to provide QAS with the Input Data in accordance with any agreed timetable.
- 13.3. The Client shall be entitled to allow Additional Users to exercise the Additional User Rights on the following conditions:
 - 13.3.1. The Client shall procure that each Additional User complies with all relevant provisions of this Agreement; and
 - 13.3.2. The Client shall fully indemnify and keep fully indemnified QAS against all and any actions, proceedings, claims and demands brought against QAS by any Additional User arising as a result of such use, however the Client shall be entitled to bring a claim (subject to Clause 9) against QAS in respect of all losses, liabilities, claims, costs and expenses suffered or incurred by an Additional User which, for the purposes of this Clause 13.3 shall be deemed to be losses, liabilities, claims, costs and expenses of the Client for the purposes of recovery from QAS.

14. TERMINATION

- 14.1. Either party may terminate the Client's entitlement to receive services pursuant to these Terms and Conditions by giving the other party not less than 30 days prior written notice.
- 14.2. Notwithstanding anything herein contained either party shall be entitled by written notice to the other to terminate the Client's entitlement to receive services pursuant to these Terms and Conditions either immediately or as from the date specified in such notice upon the happening of any of the following events:
 - 14.2.1. If the other party is guilty of any material breach of the provisions of these Terms and Conditions and such breach if capable of remedy is not remedied within seven days of written notice to that effect;
 - 14.2.2. If an order or a resolution is made or passed for the winding up of the other party (otherwise than for the purposes of solvent reconstruction or amalgamation);
 - 14.2.3. If an administrator or administrative receiver is appointed in respect of the whole or any part of the other party's assets or distress or execution is levied upon any of the assets of the other party and is not paid out within fourteen days;
 - 14.2.4. If the other party enters into any scheme of arrangement or composition with its creditors generally.
- 14.3. QAS shall be entitled to suspend or terminate the Client's entitlement to receive the Services pursuant to these Terms and Conditions without penalty or liability if:
 - 14.3.1. (If the Client is not acting as a Reseller) QAS has reason to believe that the Client is using the Services, the QAS Materials, the QAS Data other than for the Permitted Purposes; or
 - 14.3.2. (If the Client is acting as a Reseller) QAS has reason to believe that the Client is using the Services, the QAS Materials, the QAS Data other than in accordance with Clause 7.2; or
 - 14.3.3. The Client's use of the Services is causing disruption or interference to the QAS Equipment or the provision of QAS services to other QAS clients.
- 14.4. Termination of the Client's entitlement to receive the Services shall be without prejudice to any rights of either party which may have accrued prior to termination or to any provision of these Terms and Conditions which by its terms is intended to survive termination. Upon termination for whatsoever reason QAS will immediately invalidate the Client ID and the Client shall immediately deliver up to QAS all copies of any QAS Materials (at QAS's request) and any documentation provided in connection therewith together with all copies of QAS's Confidential Information. In relation to any Software, if QAS do not request delivery up the Client agrees that QAS may remotely disable the Software whether by use of the Client ID or otherwise. Any licence granted to the Client under these Terms and Conditions ceases immediately on termination.

15. STATUTORY COMPLIANCE

- 15.1. Each of the parties undertakes to the other that in respect of the provision and use of the Services (as appropriate) it will at all times comply fully with all relevant statutory enactments and regulations or requirements made by any governmental authority or equivalent body of competent jurisdiction, including without limitation the Consumer Credit Act 1974, the Data Protection Act 1998 (and the Data Protection principles thereunder), the Telecommunications (Data Protection and Privacy) Regulations 1999, and The Privacy and Electronic Communications (EC Directive) 2003.
- 15.2. Without prejudice to Clause 15.1, the Client undertakes to QAS that it holds all necessary registrations and licences and prior to its use of the Services the Input Data complies with the legislation referred to in Clause 15.1 and will ensure that all individuals whose Personal Data is contained in the Input Data provided to QAS in connection with this Agreement have given consent to:
 - 15.2.1. The processing by QAS of such of their Personal Data as the Client supplies to QAS or to which QAS has access; and
 - 15.2.2. The transfer of such Personal Data referred to in Clause 15.2.1 outside the European Economic Area if the Client requests such transfer.

- 15.3. Each party warrants that during the continuance of this Agreement it has in place and undertakes to maintain appropriate technical and organisational measures against the accidental, unauthorised or unlawful processing, destruction, loss, damage or disclosure of Personal Data and to have adequate security programmes and procedures to ensure that unauthorised persons do not have access to any equipment used to process such Personal Data or on which any such Personal Data is stored.
- 15.4. The Client acknowledges that the provision of certain of the Services, and data management services provided by QAS generally, are governed or restricted by various statutory provisions, regulations, codes of practice, rules and principles relating to the obtaining, use and sharing of personal data ("the Regulatory Framework" which shall include without limitation the Direct Marketing Association's Code of Practice), and that access to certain Personal Data is conditional upon the intended recipient entering into and complying with certain obligations. Accordingly (and without prejudice to the generality of Clauses 15.1, 15.2 and 15.3) the Client further acknowledges and agrees that notwithstanding anything to the contrary contained in these Terms and Conditions, QAS shall be entitled to suspend the provision of the Services or to decline to provide the Services to the extent that in the reasonable opinion of QAS to such provision would be:
- 15.4.1. Contrary to any requirement of the Regulatory Framework; or
 - 15.4.2. Not desirable or practicable by reason of any political regulatory or public pressures; or
 - 15.4.3. Beyond the entitlement of the Client to receive any data which it is contemplated the Client will receive in connection with the provision of the Services.
- 15.5. QAS shall not have any liability to the Client as a result of QAS exercising its rights under Clause 15.4 nor shall the exercise of such rights with regard to any part of the Services terminate any obligation of QAS or the Client relating to any other part of the Services.
- 15.6. The Client shall at the request of QAS inform QAS in writing of the selection criteria of the Input Data, the intended use of the Output and any other information which QAS reasonably considers relevant in order for QAS to verify that in performing the Services QAS and the Client are complying with the provisions of this Agreement and with the Regulatory Framework.

16. CLIENT WARRANTIES AND INDEMNITY

- 16.1. The Client warrants to QAS that it is entitled to make the Input Data available to QAS for the purpose of QAS providing the Services and that the use by QAS of the Input Data for such purpose shall not infringe the Intellectual Property Rights of any third party.
- 16.2. In the event that the Client pays for the Services by Card Payment, the Client warrants that it has the authority to make available to QAS the credit or debit card details used in connection with Card Payment.

17. FORCE MAJEURE

- 17.1. Neither party will be liable for any delay or failure in the performance of its obligations under this Agreement if such delay or failure is due to an event of Force Majeure.
- 17.2. If Force Majeure occurs, the delaying party shall be entitled to an extension of time for so long as the Force Majeure persists on condition that:
- 17.2.1. It promptly notifies the other ("unaffected party") of the occurrence of the Force Majeure;
 - 17.2.2. It discusses with the unaffected party possible action to be taken to overcome the effect of the Force Majeure; and
 - 17.2.3. It uses all reasonable endeavours to overcome the Force Majeure.
- 17.3. If the Force Majeure persists for a period of 28 days or more, the party not claiming Force Majeure may give notice to the other to terminate this Agreement with effect from a date specified in the notice without penalty or other liability (except for any liability on the Client to pay accrued fees).

18. **ASSIGNMENT**

- 18.1. Subject to Clause 18.2 the rights granted to the parties hereto are personal to them and neither party shall assign or grant any rights under these Terms and Conditions without the prior written consent of the other (such consent not to be unreasonably withheld or delayed).
- 18.2. QAS shall be entitled to sub-contract any or all of its obligations under these Terms and Conditions to a sub-contractor but by doing so QAS shall be responsible for the acts and omissions of the sub-contractor to the same extent as if it had carried out the obligations itself pursuant to these Terms and Conditions.

19. **WAIVER**

- 19.1. No failure by either party to exercise any right or remedy available to it hereunder nor any delay to exercise such right or remedy shall operate as a waiver thereof nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy

20. **ENTIRE AGREEMENT**

- 20.1. These Terms and Conditions (together with any Pricing Schedule and the Royal Mail end user licence referred to and contained in Clause 25) constitute the whole of the terms agreed between the parties in respect of the subject matter hereof (save to the extent that either party has relied upon a fraudulent misrepresentation of the other which has induced such party to agree to these Terms and Conditions) and supersede all previous negotiations understandings or representations. Other than as provided in Clause 3.3, these Terms and Conditions shall be capable of being varied only by a written instrument signed by a duly authorised officer of each party.
- 20.2. If there is any conflict between these Terms and Conditions and any other terms posted or available on the Web Site from time to time then these Terms and Conditions shall prevail to the extent of any inconsistency.
- 20.3. References in this document to these "Terms and Conditions" shall be to these Terms and Conditions as amended or varied from time to time.

21. **SEVERANCE**

- 21.1. These Terms and Conditions are severable in that if any provision of these Terms and Conditions is determined to be illegal or unenforceable by any Court of competent jurisdiction it shall be deleted to that extent and no further without affecting the remaining provisions of these Terms and Conditions.

22. **HEADINGS**

- 22.1. The headings used for these Terms and Conditions are for convenience only and shall not affect the construction of these Terms and Conditions.

23. **LAW**

- 23.1. These Terms and Conditions shall be governed by the laws of England to the exclusive jurisdiction of whose Courts the parties hereby submit.

24. **NOTICES**

- 24.1. Any notice to be given hereunder may be given in writing by recorded delivery post or facsimile or email to the address or facsimile number as set out (in the case of the Client) in its application to receive services pursuant to these Terms and Conditions or (in the case of QAS) on the Web Site.
- 24.2. Notices shall be deemed received (if sent to the correct address):
- 24.2.1. If sent by post, two working days after being posted;
 - 24.2.2. If sent by fax, when transmitted provided that a confirmatory copy is sent by special delivery by the end of the next business day after transmission;
 - 24.2.3. If sent by email, when a receipt notification is received.

25. THIRD PARTY DATA SOURCES

25.1. Where the Output contains data or data derived from data licensed to QAS by a third party (in each case such provider shall be referred to in this Agreement as a "Third Party Data Provider"), then the Client agrees to be bound by the provisions of this Clause 25 without prejudice to the other terms and conditions of this Agreement. Where there is conflict between the other terms of this Agreement and the provisions of Clause 25 then save for the provisions of Clauses 9 and 15, this Clause 25 shall take precedence.

25.2. The Client acknowledges that:

25.2.1. The Output may contain data provided by the Royal Mail Group plc ("Royal Mail");

25.2.2. The use by QAS of data provided by Royal Mail is subject to Royal Mail standard terms and conditions;

25.2.3. The Client, and any End User's, use of Output containing Royal Mail data are subject to the Royal Mail end user licences (which can be viewed by clicking on the links below);

[Business Changes File end user license](#)

[Universal Suppression Service end user license](#)

[Redirection Information end user license](#)

25.2.4. The Client shall ensure that the End User's use is subject to the terms of the Royal Mail end user licences.

25.2.5. The following organisations, and types of organisation, are prohibited from using, or registering to use the Royal Mail "National Change of Address" service:

25.2.5.1. Police;

25.2.5.2. HM Customs & Excise;

25.2.5.3. Inland Revenue;

25.2.5.4. Employment Service;

25.2.5.5. Department for Work and Pensions;

25.2.5.6. Home Office;

25.2.5.7. Child Support Agency;

25.2.5.8. A Local Authority (Housing, Council Tax, Student Grants etc);

25.2.5.9. NCIS (National Criminal Intelligence Service);

25.2.5.10. Ministry of Defence;

25.2.5.11. A debt collection agency;

25.2.5.12. Fraud Investigators;

25.2.5.13. National Health Service.

25.2.6. Accordingly, the Client shall not use or register to use or resell the Royal Mail "National Change of Address" service if it is any of the above organisations or types of organisation.

25.3. For the avoidance of doubt, in the Royal Mail end user licences:

25.3.1. "End User" shall mean the Client or in the case of a Client authorised to act as a Reseller, the End User (as defined by Clause 1 of these Terms and Conditions);

25.3.2. "Data" shall mean (as the case may be) the Royal Mail databases known as the "Business Changes File", the "National Change of Address File", the "Universal Suppression File" and such other Royal Mail data sources as QAS shall notify to the Client when providing the Services from time to time.

25.4. Royal Mail shall be entitled to enforce the provisions of the Royal Mail end user licences against the Client and/or the End User pursuant to the Contracts (Rights of Third Parties) Act 1999.

25.5. Where the Output as determined by the Client's request for the Services contains Read Group Data, which is indicated by flag data for events described as "goneaways" or "deceased" then the Client undertakes (and shall where the Client is authorised to act as a Reseller procure that the relevant End User undertakes):

- 25.5.1. Not to make permanent deletions, flagging or suppressions to any Input Data or Output Data containing in excess of 250,000 records without the further and prior written consent of QAS;
 - 25.5.2. To enter into such further written declaration as is necessary to satisfy the relevant Third Party Data Provider requirements in relation to use of such Third Party Data Provider data;
 - 25.5.3. To pay such further charges (including periodic) as agreed with QAS in respect of use of such data;
 - 25.5.4. To delete such of the relevant Third Party Data Provider data in its custody, power or possession as directed by QAS or the relevant Third Party Data Provider following non-payment of the relevant periodic fee; and
 - 25.5.5. To provide QAS with such reasonable information as QAS may require to disclose to the relevant Third Party Data Provider from time to time concerning the licence of such data to the Client and/or End User (as the case may be).
- 25.6. Where the Output as determined by the Client's request for the Services contains telephone numbers then the Client undertakes (and shall where the Client is authorised to act as a Reseller procure that the relevant End User undertakes):
- 25.6.1. That within a reasonable time of a request to do so by QAS, it shall take any action which the relevant Third Party Data Provider notifies to QAS is reasonably necessary to secure compliance with any conditions imposed on such Third Party Data Provider under section 45 of the Communications Act 2003, or any continuing licence obligations that may be imposed on such Third Party Data Provider in accordance with Schedule 18 of the Communications Act 2003 and/or any statute, directive, code of practice, regulations, decision or recommendation (whether or not having the force of law) which is applicable to use of such Third Party Data Provider's data contained in the Output; and
 - 25.6.2. Whenever QAS confirms in writing to the Client (or End Users) that it has reasonable grounds to suspect that telephone numbers supplied by QAS or lists containing telephone numbers so supplied or any derivative thereof is being used or accessed by any individual, partnership, body corporate, statutory body, unincorporated association or other body other than in accordance with the terms of the licence agreement between the relevant Third Party Data Provider and QAS that it will (and will procure each End User will) co-operate to a reasonable extent with QAS in investigating such suspected or actual use or access taking all necessary remedial steps as necessary in connection therewith.
 - 25.6.3. Not to sell or make available the resulting database to third party organisations.