

THIS MASTER AGREEMENT IS MADE THE [●] DAY OF [●] 20[●]

BETWEEN

- (1) **Triaster Ltd** incorporated and registered in England and Wales with company number 02911867 whose registered office is at Fugro House, Hithercroft Road Wallingford Oxfordshire OX10 9RB (**Triaster**).

- (2) **[Full Company Name]** incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Customer**).

Triaster is the owner of a software application that enables the effective management and implementation of business processes within an organisation. Triaster has agreed to licence the software and make available ancillary services to the Customer, or any of its affiliates, on the terms of this master agreement (**Master Agreement**).

When the Customer or a Customer Affiliate (as defined below) requests software or services from Triaster the parties will enter into a call-off in accordance with this Master Agreement, which will incorporate the terms and conditions set out in this Master Agreement.

1 AGREED TERMS

1.1 In this Master Agreement the following words and expressions shall have the following meanings except where the context otherwise requires:

Charges	the Licence Fee together with any Hosting Fees, Implementation Fees, additional licence fees or any other fees or charges payable for any Professional Services payable by the Customer as set out in an applicable Customer Order Form
Confidential Information	has the meaning given in clause 14.9
Content Services	the creation of bespoke templates, content or other materials to populate the Triaster Software on behalf of the Customer
Customer Affiliate	an entity that directly or indirectly controls, is controlled by, or is under common control with the Customer or another member of the Customer's group
Customer Content	any content or materials provided to Triaster by the Customer or otherwise uploaded into the Triaster Software by the Customer
Customer Order Form	the quotation and subsequent order outlining the details of the licence or Services identified by a unique reference number, of all items purchased under an

	individual contract made under the terms of this Master Agreement
Customisation Work	work delivered by Triaster to customise stencils, templates, libraries, or other parts of the Software in response to Customer requests
Documentation	the operating manuals, user instructions and all other materials in eye-readable form supplied to the Customer by Triaster to assist in the use of the Triaster Software
Effective Date	the date specified in the Customer Order Form
Hosting Charges	the fee for the provision of the Hosting Services as set out in the applicable Customer Order Form
Hosting Services	means the hosting of the Triaster Software and any Customer Content on IT infrastructure owned or controlled by Triaster as more particularly set out in the Customer Order Form
Implementation Deliverables	all deliverables to be provided as part of any Professional Services as more particularly described in an individual Customer Order Form
Implementation Fees	the charges payable in respect of any Customisation Work as specified in the applicable Customer Order Form
Initial Term	the greater of the period set out in the Customer Order Form or 24 months
Intellectual Property Rights	all inventions, patents, registered designs design rights, copyrights, know-how, rights in software, database rights and trademarks whether registered or not and the goodwill thereon and applications for any of the same and all rights of a similar nature throughout the world
Library	the organisationally meaningful collection of end-to-end processes managed and used by a distinct set of individual users within the Customer's organisation
Library User	those employees, agents or independent contractors of the Customer who are authorised by the Customer to use one or more Libraries within the Triaster Software
Licence	has the meaning given to it in clause 4.1

Licence Fee	the fees specified in the Customer Order Form for the grant of the Licences to use the Triaster Software
Named Contacts	suitably qualified or experienced contacts notified to Triaster by the Customer from time to time
Navigator User	those employees, agents or independent contractors of the Customer who are authorised by the Customer to use Process Navigator as part of the Triaster Software
Permitted User	an individual (being the Customer's employee or agent) authorised by the Customer as agreed with Triaster to use the Triaster Software and to whom a Licence has been allocated
Personal Data	has the meaning set out in the Data Protection Act 1998
Professional Services	any one or all of the Content Services, Customisation Work or any other services specified in a Customer Order Form
Reinstatement Fee	the fee payable for reinstatement of the Licence following cancellation or non-renewal of the Master Agreement, calculated as 10% of the Licence Fee for the next Renewal Term for each period of 30 days (or any part period) following notice from the Customer to terminate
Renewal Term	a period of 48 months, or such other period specified in the Customer Order Form commencing on the day after the expiry of the Initial Term, or as the case may be the day after the expiry of any previous Renewal Term
Services	any or all of the Support Services or Professional Services
Services Fees	fees for the provision of any Professional Services to be provided by Triaster as set out in the applicable Customer Order Form
Start Date	the date on which the Triaster Software is installed by Triaster whether on infrastructure owned by the Customer or via the Hosting Services
Support Hours	9.00am–5.00pm UK time, Monday to Friday excluding English bank holidays
Support Scope	the scope of support as detailed in Schedule 2

Support Services	the support and maintenance services set out in clause 8 of this Master Agreement together with any additional support set out in a Customer Order Form
Trial Costs	the costs (if any) specified as such in a Customer Order Form
Trial End Date	the earlier of the dates, 3 calendar months after the Start Date or the date the Triaster Software is deemed accepted in accordance with clause 5.4
Trial Period	the period commencing on the Effective Date, and ending on the Trial End Date
Triaster Software	the Triaster computer software programs known as Process Navigator and Process Libraries and the Documentation as specified in the Customer Order Forms including without limitation all Upgraded Versions modifications and customisations thereto authorised by Triaster
Upgraded Version	any new iteration or maintenance release of the Triaster Software produced by Triaster from time to time
Warranty Period	has the meaning given to it at clause 12.1

Any other capitalized words shall have the meaning set out in the Customer Order Form.

1.2 Except where the context otherwise requires:

1.2.1 words in the singular shall include the plural and vice versa;

1.2.2 a reference to a person shall include a reference to a firm a body corporate an unincorporated association or to a person's executors administrators successors (including but not limited to persons taking by novation) and assigns;

1.2.3 the headings and use of bold type in this Master Agreement are for convenience only and shall not affect the interpretation or construction of this Master Agreement. Any reference to a Clause is, unless otherwise stated, to a clause in this Master Agreement.

1.2.4 the Schedules form part of this Master Agreement and have the same force and effect as if expressly set out in the body of this Master Agreement and any reference to this Master Agreement shall include the Schedules.

2 SCOPE OF MASTER AGREEMENT

2.1 This Master Agreement governs the overall relationship of the parties in relation to the Licences and Services to be provided by Triaster to the Customer and any Customer Affiliate who enters into a Customer Order Form on the terms of this Master Agreement.

- 2.2 Where a Customer Order Form is submitted, and executed, by a Customer Affiliate the terms of this Master Agreement shall be incorporated into that Customer Order Form, and shall apply mutatis mutandis, and references in this Master Agreement shall be deemed to be obligations on the Customer Affiliate for the purpose of that Customer Order Form only.
- 2.3 Notwithstanding the execution of a Customer Order Form by a Customer Affiliate, the Customer shall be liable for the performance of each Customer Order Form by a Customer Affiliate, and shall indemnify Triaster against any costs, claims, damages, liabilities or expenses incurred by Triaster as a result of any breach of the terms of an individual Customer Order Form or enforcement of Triaster's rights under the same.

3 TERM AND TERMINATION

- 3.1 This Master Agreement will commence on the Effective Date and unless terminated in accordance with clause 3.2 or clause 3.5, will continue for the Initial Term. On expiry of the Initial Term, the Master Agreement will automatically renew for the Renewal Term unless the Customer gives not less than three (3) months' notice in writing to expire on or before the expiry of the Initial Term or any Renewal Term as appropriate.
- 3.2 During the Trial Period only, the Customer may terminate this Master Agreement, without liability save to pay the Trial Costs, by giving 1 week's notice in writing. On receipt of notice, Triaster will cease provision of any Services. Within 1 week of giving notice to terminate the Trial Period, the Customer shall:
- 3.2.1 delete and permanently erase all copies of the Triaster Software (if any) together with any archive or back up copies;
 - 3.2.2 return or delete and permanently erase all copies of any of Triaster's Confidential Information; and
 - 3.2.3 certify this deletion in the form set out in Schedule 3 signed by a director, or person of equivalent standing, confirming the deletion.
- 3.3 Any licence granted by Triaster to the Customer to use any Library will automatically end on expiry of the relevant licence term applicable to that Library as specified in the Customer Order Form, but for the avoidance of doubt, the expiry of a licence to use an individual Library does not affect the Licence to use the Triaster Software nor the continuance of this Master Agreement.
- 3.4 An individual Customer Order Form will become a legally binding call-off contract under this Master Agreement on signature by both parties. An individual Customer Order Form will terminate:
- 3.4.1 automatically on termination or expiry of this Master Agreement;
 - 3.4.2 immediately following notice in writing from either party if the other party is in breach of any of the terms of the Customer Order Form or this Master Agreement (in so far as they relate to the specific Customer Order Form) and such breach is either not remediable, or has not been remedied within 30 days of the notice informing the party of the breach and requiring its correction;

- 3.4.3 on 10 days' notice at the request of the Customer, providing that the Customer has paid all sums due under the relevant Customer Order Form, or (whether the Customer Order Form relates to the provision of services) where the Customer agrees to pay for all services that have been delivered up to the date of termination.
- 3.5 Either party may terminate this Master Agreement forthwith on giving notice in writing to the other party if:
- 3.5.1 the other party commits any material breach of any term of this Master Agreement and (in the case of a breach capable of being remedied) shall have failed within 30 days after the receipt of a request in writing to remedy the breach (such request to contain a warning of the intention to terminate); or
- 3.5.2 the other party suspends or threatens to suspend payment of its debts, or is otherwise unable to pay debts as they fall due;
- 3.5.3 the other party commences any negotiations with any or all of its creditors to reschedule any of its debts other than in connection with any solvent amalgamation of its debts or assets;
- 3.5.4 any application is made for the appointment of an administrative receiver or declaration of bankruptcy or any equivalent;
- 3.5.5 the other party suspends or ceases or threatens to suspend or cease carrying on all or a substantial part of its business.
- 3.6 On termination of this Master Agreement for any reason the Licence to use the Triaster Software will automatically terminate and the Customer will immediately discontinue use of all Triaster Software and any Services.
- 3.7 Following termination of this Master Agreement, the Customer will either return or delete and permanently erase all copies of Triaster's Confidential Information, together with any copies of the Triaster Software in its possession or control, and provide Triaster with a certificate in the form set out in Schedule 3 signed by a Director or person of equivalent standing confirming the deletion of all copies of any Triaster Confidential Information and any Triaster Software within 5 days of the termination or expiry of this Master Agreement.
- 3.8 Any termination or expiry of this Master Agreement (howsoever occasioned) shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination or expiry.
- 3.9 Following service of notice to terminate this Master Agreement, the Customer may request a reinstatement of this Master Agreement at any time prior to its termination subject to payment of the Reinstatement Fee.

4 LICENCE

- 4.1 In consideration of the payment of the Licence Fee by the Customer, Triaster hereby grants to the Customer a non-exclusive and non-transferable licence ("**Licence**") to use the Triaster

Software and operate a single Library for the Initial Term, and any Renewal Term(s) if appropriate, subject to the terms of this Master Agreement as amended from time to time.

- 4.2 From time to time the Customer may also purchase licenses to operate additional Libraries through the Triaster Software in accordance with clause 4.10.
- 4.3 For the purpose of clause 4.1, the Customer's use of the Triaster Software and any Libraries:
 - 4.3.1 is restricted to use of the Triaster Software in object code form for the purpose of processing the Customer's data for normal business use of the Customer;
 - 4.3.2 does not include allowing the use of the Triaster Software for the benefit of any person other than a Permitted User; and
 - 4.3.3 may include making up to two back-up copies for its lawful use, provided that the Customer keeps an auditable record of the number and location of all such back-up copies.
- 4.4 For the purpose of clause 4.1, where the Triaster Software is installed on a Customer owned or controlled server, the Customer may replicate or reproduce the Triaster Software on an unlimited number of servers, providing that at all time the servers are owned or controlled by the Customer, the Customer keeps an accurate and up to date record of each server on which the Triaster Software is installed, and permits Triaster to audit the instances of the Triaster Software from time to time. The Customer acknowledges that it is solely responsible for ensuring that any copyright or ownership notices are clearly replicated on each copy, and for taking appropriate security measures to ensure the confidentiality of each copy of the Triaster Software is maintained.
- 4.5 Except as expressly provided in this Master Agreement or in law the Customer will have no right, and will not permit or allow any third party to copy, adopt, reverse engineer, modify, decompile, disassemble, adapt or correct the Triaster Software or any of the Implementation Deliverables in whole or in part.
- 4.6 The Customer acknowledges that the licence to use the Triaster Software does not include any licence of any third party software with which the Triaster Software may operate and the Customer acknowledges that it is required to obtain any licences which it may require to enable it to use such third party software.
- 4.7 The Licence shall not be deemed to extend to any programs or materials of Triaster other than the Triaster Software unless specifically agreed to in writing by Triaster.
- 4.8 The Customer hereby acknowledges that it is licensed to use the Triaster Software only in accordance with the express terms of this Master Agreement and not further or otherwise. In particular the Customer may not use any information provided by Triaster to create software or content which is substantially similar to the Triaster Software.
- 4.9 The Customer will permit Triaster at any time on reasonable notice to inspect and have access to any premises and computer systems or equipment at or on which the Triaster Software is kept, used or held, including the right to inspect records or reports for the purpose of ensuring

compliance with the terms of this Master Agreement in general, and the provisions of this clause 4 in particular.

- 4.10 From time to time the Customer may purchase additional licences to use additional Libraries, or to extend access to the Process Navigator software to additional Navigator Users by submitting a new Customer Order Form. Triaster shall not have any obligation to enable access to additional Libraries or additional Navigator Users unless or until it has received the relevant additional licence fees specified in the Customer Order Form in cleared funds. The licence to use such additional Libraries shall run for the duration specified in the applicable Customer Order Form.

5 CONFIGURATION, DELIVERY AND INSTALLATION

- 5.1 In consideration of the payment of the Implementation Fees, Triaster will perform the Customisation Work to configure and adapt its core software and deliver the Implementation Deliverables to deliver and install on the Customer's IT infrastructure one copy of the Triaster Software electronically to the Customer at the address(es) specified in the Customer Order Form in accordance with the any timetable set out in the Customer Order Form.
- 5.2 Triaster will carry out acceptance testing to verify to the Customer that the Triaster Software has been correctly installed and is functioning in accordance with the specification set out in the relevant Customer Order Form. In the event that the Triaster Software does not pass the acceptance testing, Triaster will correct any errors identified within a reasonable period and retest the Triaster Software in the presence of the Customer.
- 5.3 The Customer may, during the Trial Period conduct such acceptance testing and review of the provided evaluation system to satisfy itself that the Triaster Software is suitable for its own purposes provided that the Customer will not use the Triaster Software in the normal course of its business during the Trial Period.
- 5.4 Unless the Customer has served notice in accordance with clause 3.2, the Customer will be deemed to have accepted the Triaster Software on the earlier of (i) the expiry of the Trial Period or (ii) the date the Customer commences operational use of the Triaster Software.

6 HOSTING SERVICES

Where the Customer specifies the Hosting Services in the Customer Order Form, the additional terms in Schedule 4 shall apply.

7 PROFESSIONAL SERVICES

- 7.1 Triaster shall provide the Professional Services specified in any Customer Order Form in accordance with the terms set out in this clause 7, and the relevant Customer Order Form. Triaster shall use reasonable efforts to meet any performance dates specified in the Customer Order Form, but time shall not be of the essence.
- 7.2 Triaster shall take reasonable steps to ensure that its employees and contractors comply with any rules or requirements of the Customer as are notified to it in writing.

- 7.3 The Customer shall provide such access to its facilities, information and employees as is required to deliver the Professional Services and, where these include class-based training, ensure that a suitable training facility is set up for the delivery of the Professional Services.
- 7.4 Subject to clause 7.3, Triaster will deliver the Professional Services to a timetable agreed through an advance booking system at the earliest dates reasonably achievable subject to availability, in minimum units of a full day with parts of a day charged as a whole day.
- 7.5 Triaster shall not be liable for any delay in delivery of the Professional Services due to the failure of the Customer to comply with its obligations in clause 7.3.
- 7.6 Where the Customer places an order for a number of Professional Services days without a specific timetable for delivery, all such days must be booked within 6 months of the date of that order. In the event that Professional Services days are not booked within this period, the obligation on Triaster to supply these shall lapse.
- 7.7 The Customer will be deemed to have accepted any delivery of Professional Services unless the Customer notifies Triaster of any dissatisfaction within a reasonable period following their delivery which in any event should not extend beyond 9 a.m. on the next day on which Triaster delivers Professional Services to the Customer.
- 7.8 In the event that the Customer postpones a scheduled Professional Services day less than 30 days from a confirmed booked date, a postponement fee equal to the greater of 50% of the charge for that day or five hundred pounds will be payable. In the event that the Customer postpones a scheduled Professional Services day less than 14 days from a confirmed booking date, a postponement fee equal to the greater of 100% of the charge for that day or five hundred pounds will be payable.
- 7.9 Triaster will take reasonable steps to ensure the suitability of all personnel who are likely to be engaged in fulfilling the obligations of Triaster under this Master Agreement, including but not limited to appropriate background and related checks.

8 SUPPORT SERVICES

- 8.1 Triaster will provide the following support services inclusive within the Licence Fees:
- 8.1.1 telephone and email support via the Triaster helpdesk. The helpdesk will be available to named contacts only;
 - 8.1.2 remote diagnosis and where possible correction of faults or errors in the Triaster Software (and/or Hosting Services where applicable);
 - 8.1.3 error correction and bug fixing during the Warranty Period to ensure that the Triaster Software performs in accordance with the Documentation;
 - 8.1.4 copies of any maintenance release or correction to the Triaster Software; and
 - 8.1.5 notification of any Upgraded Version of the Triaster Software, and where the Customer elects to implement any such Upgraded Version, it will become the Triaster Software to which these Standard Terms apply.

- 8.2 Triaster will support the Triaster Software for five years from its date of release.
- 8.3 The Support Services will be provided during the Support Hours only. Triaster will use reasonable efforts to acknowledge any support call on the day of receipt, during the Support Hours, and will use reasonable efforts during Support Hours to provide an error, correction or bug fix within 90 days of the date of notification.
- 8.4 The Support Services are provided subject to a maximum number of support incidents as specified in the Customer Order Form, or where no maximum is specified a maximum of 1 emailed support incident per calendar month.
- 8.5 For the avoidance of doubt, Triaster will not be obliged to provide any maintenance release or Upgraded Version at any specific time.
- 8.6 For the avoidance of doubt, the following services fall outside the scope of the Support Services, and where Triaster provides these services, Triaster may charge for its time on an hourly basis at its then current rates:
- 8.6.1 any error, bug or fault directly or indirectly caused or contributed to by any user error, misuse, incorrect use of or damage to the Triaster Software;
 - 8.6.2 use of the Triaster Software otherwise than in accordance with the Documentation and/or any training;
 - 8.6.3 use of the Triaster Software by any person other than a Permitted User;
 - 8.6.4 failure to maintain the necessary environmental conditions for use of the Triaster Software;
 - 8.6.5 any fault or error arising in circumstances where Triaster has made available a maintenance release or Upgraded Version that would have corrected or avoided the fault or error that has not been implemented by the Customer;
 - 8.6.6 any fault or error arising as a result of any interoperability with any third party software, system or content;
 - 8.6.7 any fault or error caused by any unauthorised modification or adaption of the Triaster Software, or any other breach of any Customer obligations set out in these Standard Terms;
 - 8.6.8 relocation of the Triaster Software by any third party.

9 CONTENT SERVICES

- 9.1 Where the Customer requests Content Services in a Customer Order Form, the following terms shall apply.
- 9.2 Triaster shall provide, or procure the provision of the Content Services to create bespoke content for the Customer as specified in the Customer Order Form. The Content Services shall be provided by reasonably skilled individuals experienced in the relevant field to meet the specification and requirements set out in the specific Customer Order Form. Triaster shall use

reasonable efforts to meet any performance dates specified in the Customer Order Form, but time shall not be of the essence in delivering any of the bespoke content.

9.3 Triaster shall assign to the Customer, or shall procure the assignment to the Customer, by way of a present assignment of future rights, all Intellectual Property Rights in the output of the Content Services, providing that nothing will have the effect of transferring any Intellectual Property Rights that existed prior to the execution of the relevant Customer Order Form, or will operate to prevent Triaster or its sub-contractors, from reusing any retained knowledge. On delivery to the Customer the output of the Content Services shall form part of the Customer Content.

9.4 Triaster shall use reasonable efforts to ensure that the output of the Content Services is original material, but does not warrant that receipt, use and onward supply of the output of any Content Services will not infringe the Intellectual Property Rights of any third party. In the event of any alleged infringement, Triaster's sole obligation shall be to re-perform the Content Services to avoid the alleged infringement.

10 CUSTOMER'S OBLIGATIONS

10.1 The Customer shall:

10.1.1 ensure that the Triaster Software is used in a proper manner by competent trained users;

10.1.2 ensure that only the maximum number of Navigator Users as specified in the Customer Order Forms, access and use the Process Navigator portions of the Triaster Software;

10.1.3 not request, permit or authorise anyone other than Triaster to provide any maintenance services in respect of the Triaster Software or any individual Libraries;

10.1.4 co-operate fully with Triaster's personnel in the diagnosis of any error or any defect in the Triaster Software;

10.1.5 effect and maintain adequate security measures to safeguard the Triaster Software from access or use by any person who is not a Navigator User or Library User;

10.1.6 retain the Triaster Software and all copies thereof under the Customer's effective control;

10.1.7 maintain such records as are reasonably required to demonstrate to Triaster compliance with the conditions of this Master Agreement;

10.1.8 provide such information as Triaster may request together with such reasonable access to the Customer's premises, data and systems to enable Triaster to perform its obligations under this Master Agreement and any individual Customer Order Form.

10.2 If Triaster's performance of its obligations under an individual Customer Order Form is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, Triaster shall not be liable for any costs, charges or losses

sustained or incurred by the Customer that arise directly or indirectly from such prevention or delay

10.3 The Customer shall fully and effectively indemnify Triaster and hold Triaster harmless against all damages, costs or liabilities and other sums incurred arising out of any use or misuse of the Triaster Software or any Customer Content by any Navigator User or Library User, or any other individual accessing the same on behalf of the Customer.

10.4 The Customer will perform any additional obligations set out in a Customer Order Form in a timely manner.

11 PAYMENTS

11.1 In consideration of the grant of the Licences and provision of any Services set out in each and every Customer Order Form, the Customer shall pay Triaster the Charges set out in the relevant Customer Order Form in accordance with this clause 11.

11.2 Triaster shall invoice the Charges in accordance with the payment schedule set out in each Customer Order Form, and unless otherwise expressly stated in the Customer Order Form, payment is due within 30 days of receipt by the Customer of the invoice from Triaster.

11.3 If any sum payable under any individual Customer Order Form is not paid on the due date, then (without prejudice to Triaster's other rights or remedies) Triaster reserves the right to:

11.3.1 suspend the provision of any Support Services (whether or not ordered under the same Customer Order Form to which the non-payment relates; and/or

11.3.2 charge interest on such sum on a day to day basis from the due date to the date of actual payment at the rate of 3% per annum above the base rate of HSBC Bank plc, from time to time in force. Interest shall be payable on demand.

11.4 Notwithstanding the provisions of clause 11.3 above, in the event that:

11.4.1 any License Fees are not paid on the due date, then, without prejudice to Triaster's other rights or remedies, Triaster reserves the right to suspend access to the Triaster Software until such time as the Licence Fee is paid in full in cleared funds; and/or

11.4.2 any Hosting Charges are not paid on the due date, then without prejudice to Triaster's other rights or remedies, Triaster reserves the right to suspend access to the Hosting Services as set out in clause 6 and Schedule 4, and, where applicable, may charge an additional reconnection fee to reinstate the Hosting Services.

11.5 Where expenses are not explicitly included within the prices quoted on the Customer Order Form, Triaster will invoice the Customer for all expenses (including but not limited to accommodation, travel costs and travel time) reasonably incurred in the course of providing the Services in accordance with Triaster's expenses policy in Schedule 1 to these terms.

11.6 Unless otherwise stated in the relevant Customer Order Form, all amounts payable by the Customer are exclusive of amounts in respect of any value added tax.

12 WARRANTIES

- 12.1 Triaster warrants and undertakes for a period of 90 days following the Start Date ("**Warranty Period**") that:
- 12.1.1 the Triaster Software will:
- (a) provide the facilities and functions set out in the Documentation; and
 - (b) be free from material defects in materials, workmanship and installation;
 - (c) when used in accordance with Documentation, the Documentation will provide adequate instructions to enable the Customer to make full and proper use of the Triaster Software;
- 12.1.2 all Services provided by it under this Master Agreement will be carried out with reasonable skill and care and in accordance with accepted industry standards for similar services;
- 12.1.3 Triaster will take all reasonable steps, in accordance with accepted industry standards, to ensure that the Triaster Software does not contain a virus or malicious code but does not warrant that the Triaster Software will remain free from all such viruses or malicious codes.
- 12.2 Triaster does not warrant that the use of the Triaster Software will operate uninterrupted or error free.
- 12.3 If Triaster receives written notice from the Customer during the Warranty Period of any breach of clause 12.1 the Triaster shall at its own expense and within a reasonable time after receiving notice remedy the defect or error in question or provide a suitable workaround or at Triaster's option replace and reinstall the Triaster Software.
- 12.4 The warranty contained in clause 12.1 shall be subject to the Customer complying with its obligations under this Master Agreement and any individual Customer Order Form and subject to the Customer installing any current Upgraded Version. For the avoidance of doubt, the warranty does not apply to unauthorised customisations or modifications to the Software or the consequences of failure of the Customer's systems or hardware, and Triaster may charge for its services to remedy any error or defect arising in any of the circumstances set out in clause 8.6.
- 12.5 The Customer acknowledges that the Triaster Software has not been prepared to meet the Customer's individual requirements and that it is therefore the responsibility of the Customer to ensure that the facilities and functions described in the Documentation meet its requirements.
- 12.6 The warranties and undertakings in this clause 12 are the exclusive warranties in respect of the provision of software and services by Triaster and all other warranties, representations or guarantees of any kind, either expressed or implied by statute, common law or otherwise including but not limited to, any implied warranties of quality, merchantability, fitness for a

particular purpose or ability to achieve a particular result, are excluded to the fullest extent permitted.

13 LIMITATION OF LIABILITY

13.1 Neither party excludes any liability, for any death or personal injury caused by negligence nor for any liability arising due to fraud or fraudulent misrepresentation

13.2 Subject to clause 13.1 above, Triaster will not in any circumstances be liable for any losses or damages which may be suffered by the Customer (or any person claiming under or through the Customer), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in Master Agreement, tort (including negligence) or otherwise howsoever, which fall within any of the following categories:

13.2.1 special damage even if the Supplier was aware of the circumstances in which such special damage could arise;

13.2.2 loss of profits;

13.2.3 loss of anticipated savings;

13.2.4 loss of business opportunity;

13.2.5 loss of goodwill;

13.2.6 loss or corruption of data.

13.3 Subject to clauses 13.1 and 13.2 Triaster's liability to the Customer in respect of any alleged breach or non-conformity with this Master Agreement, whether in contract, tort (including negligence) or otherwise will be limited to the reasonable costs of remedying such defect and in no circumstances will Triaster's aggregate liability to the Customer exceed a sum equal to the aggregate value of payments made by the Customer under all Customer Order Forms executed by the parties in the 12 months prior to the claim arising.

13.4 The Customer shall fully and effectively indemnify Triaster and hold Triaster harmless against all damages, costs, or liabilities and any other sums incurred arising out of a claim or action arising out of the Customer's use of the Triaster Software in breach of this Master Agreement, or the use and possession of any Customer Content where relevant.

14 INTELLECTUAL PROPERTY AND PROPRIETARY RIGHTS

14.1 The Customer acknowledges that all Intellectual Property Rights in the Triaster Software, including any Upgraded Version belong and shall belong to Triaster or its licensors.

14.2 Triaster acknowledges that all Intellectual Property Rights in the Customer Content belong and shall belong to the Customer, and the Customer hereby grants to Triaster a limited right and licence to copy and use the Customer Content for the purpose of delivering the Customisation Work and the provision of any Implementation Deliverables and where applicable, to host the Triaster Software on behalf of the Customer.

- 14.3 Triaster will at its own expense defend the Customer or, at its option, settle any claim or action brought against the Customer alleging that the possession or use of the Triaster Software, (or any part thereof) in accordance with the terms of this licence infringes the UK Intellectual Property Rights of a third party ("**Claim**") and shall be responsible for any reasonable losses, damages, costs (including legal fees) and expenses incurred by or awarded against the Customer as a result of or in connection with any such Claim.
- 14.4 For the avoidance of doubt, Triaster will not be required to indemnify the Customer in respect of any Claim attributable to possession or use of the Triaster Software (or any part thereof) by the Customer other than in accordance with the terms of this Master Agreement, use of the Triaster Software in combination with any hardware or software not supplied or specified by Triaster if the infringement would have been avoided by the use of the Triaster Software not so combined, or use of a non-current release of the Triaster Software.
- 14.5 If any third party makes a Claim, or notifies an intention to make a Claim against the Customer, Triaster's obligations under clause 14.3 are conditional on the Customer:
- 14.5.1 as soon as reasonably practicable, giving written notice of the Claim to Triaster, specifying the nature of the Claim in reasonable detail;
 - 14.5.2 not making any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of Triaster (such consent not to be unreasonably conditioned, withheld or delayed);
 - 14.5.3 giving Triaster and its professional advisers access at reasonable times (on reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the power or control of the Customer, so as to enable Triaster and its professional advisers to examine them and to take copies for the purpose of assessing the Claim; and
 - 14.5.4 taking such reasonable action as Triaster may reasonably request to avoid, dispute, compromise or defend the Claim.
- 14.6 If any Claim is made, or in Triaster's reasonable opinion is likely to be made, against the Customer, Triaster may at its sole option and expense:
- 14.6.1 procure for the Customer the right to continue to use the Triaster Software (or any part thereof) in accordance with the terms of this Master Agreement;
 - 14.6.2 modify the Triaster Software so that it ceases to be infringing;
 - 14.6.3 replace the Triaster Software as the case may be, with non-infringing versions; or
 - 14.6.4 terminate an individual Customer Order Form, or this Master Agreement, immediately by notice in writing to the Customer and refund the License Fee paid by the Customer as at the date of termination (less a reasonable sum in respect of the Customer's use of the Triaster Software to the date of termination) on return of all copies of the Triaster Software.

- 14.7 This clause constitutes the Customer's exclusive remedy and Triaster's only liability in respect of Claims and, for the avoidance of doubt, is subject to clause 13.
- 14.8 The images, logos, names and trading marks used to identify Triaster or Triaster's products and services are Triaster's proprietary marks whether registered or unregistered and may be used only with Triaster's permission.
- 14.9 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party (**Confidential Information**), except as permitted by this clause 14. Each party may disclose the other party's Confidential Information:
- 14.9.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall procure that its employees, officers, representatives or advisers to whom it discloses the other party's Confidential Information comply with this clause 14; and
- 14.9.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 14.10 No party shall use any other party's Confidential Information for any purpose other than to perform its obligations under this agreement.

15 DATA PROTECTION

- 15.1 To the extent that Triaster is providing Professional Services and/or Hosting Services, the Customer acknowledges that it will be the data controller of any Personal Data of the Customer, as the same are defined in the Data Protection Act 1998, and Triaster will process any such Personal Data as a data processor on behalf of the Customer, and acknowledges that Triaster:
- 15.1.1 will only process such Personal Data in accordance with the terms of this Master Agreement and any written instructions from the Customer;
- 15.1.2 will implement appropriate technological and organisational measures to prevent any unauthorised or unlawful processing of the Personal Data; and
- 15.1.3 will take reasonable steps to ensure the reliability of those personnel who will have access to the Personal Data of the Customer.

16 ASSIGNMENT

Neither party shall be entitled to assign or otherwise transfer the benefits or obligations of this Master Agreement whether in whole or in part without the prior written consent of the other party.

17 GENERAL

- 17.1 The Parties undertake for the duration of this Master Agreement and 6 months thereafter not to solicit, entice or encourage to leave the employ of the other Party, any person who is employed by the other Party without the prior written consent of the other Party.
- 17.2 Triaster shall not be in breach of the terms of this Master Agreement for any delay in performing, or failure to perform, its obligations under the Master Agreement if that delay or failure was due to any cause or circumstance beyond Triaster's reasonable control. If such delay or failure persists for more than 90 days, the Customer shall be entitled to terminate this Master Agreement immediately by notice in writing and the provisions of Clauses 3.4 and 3.5 shall apply.
- 17.3 This Master Agreement, together with each individual Customer Order Form, and any schedules or documents annexed as appendices to the Customer Order Form contain the whole agreement between the parties relating to the subject matter of the Master Agreement and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter. Each party acknowledges that, in entering into the Master Agreement, it does not rely on any statement, representation, assurance or warranty (whether it was made negligently or innocently) of any person (whether a party to this licence or not) ("**Representation**") other than as expressly set out in the Master Agreement. Each party agrees that the only rights and remedies available to it arising out of or in connection with a Representation shall be for breach of contract. Nothing in this clause shall limit or exclude any liability for fraud.
- 17.4 From time to time, Triaster may make commercially reasonable changes to this Master Agreement, and/or the configuration of the Triaster Software. Where Triaster makes any amendment to the Master Agreement, it will communicate such change to the Customer, and where the change has a materially adverse impact on the Customer, and the Customer acting reasonably does not agree to the change, the Customer must notify Triaster that it rejects the change within 30 (thirty) days after receiving notice of the change, and the Master Agreement will continue to be governed by the terms in effect immediately prior to the notification of the change until the end of its then current term, but shall not be renewed.
- 17.5 In the event of any dispute or discrepancy between:
- 17.5.1 this Master Agreement and an individual Customer Order Form, the Customer Order Form will have priority over this Master Agreement;
 - 17.5.2 this Master Agreement and the Schedules, the order of priority shall be: (i) Schedule 4; (ii) this Master Agreement and (iii) any other Schedule;
 - 17.5.3 the terms of any individual Customer Order Forms, the most recent Customer Order Form will have priority over any previous Customer Order Form.
- 17.6 Nothing in this Master Agreement shall create any rights for third parties under the Contracts (Rights of Third Parties) Act 1999. No variation to this Master Agreement and no supplemental or ancillary agreement to this Master Agreement shall create any such rights unless expressly so stated in any such agreement by the parties. This does not affect any right or remedy of a third party which exists or is available apart from that Act.

- 17.7 All notices which are required to be given hereunder shall be in writing and shall be sent to the address of the recipient set out in the Customer Order Form, or such other address in England as the recipient may designate by notice given in accordance with the provisions of this Clause. Any such notice may be delivered personally or by first class pre-paid letter or by facsimile transmission and shall be deemed to have been served if by hand when delivered, if by first class post 48 hours after posting, and if by facsimile transmission when dispatched.
- 17.8 Neither party shall export, directly or indirectly, any technical data acquired from the other party under this Master Agreement (or any products, including software, incorporating any such data) in breach of any applicable laws or regulations, to any country for which the government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.
- 17.9 To the extent that any clause or part of a clause is found to be invalid or unenforceable such clause or part of a clause shall be deemed modified to the minimum extent possible to give it legal effect, and if any such modification is not possible that part of portion will be deemed deleted and the remainder of this Master Agreement shall remain in full force and effect.
- 17.10 The failure to exercise or delay in exercising a right or remedy provided by this Master Agreement or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies.
- 17.11 This Master Agreement shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees the Courts of England and Wales shall have exclusive jurisdiction in relation to any claim dispute or difference concerning this Master Agreement and any matter arising therefrom.
- 17.12 Save where expressly stated, no variation to this Master Agreement or signed Customer Order Form will be binding unless signed in writing by authorised representatives of the parties.
- 17.13 Triaster implements anti-bribery measures in accordance with the UK Bribery Act 2010 and good practice, and does not accept nor condone the solicitation or offering of inappropriate gifts and/or payments. The Customer will notify Triaster of any attempt to offer any inappropriate gift or payment by way of an inducement to enter into this Master Agreement, or to vary its terms, and will cooperate with Triaster in investigating any such inappropriate behaviour.
- 17.14 The Master Agreement may be executed in counterparts each of which when delivered will constitute a duplicate and all counterparts will together constitute a single agreement.

Schedule 1
Triaster Expenses Policy

This Schedule 1 provides an overview of expenses that will be charged where relevant. VAT will be added to all expenses charged. Distances charged will be the return journey from Triaster's office to the Customer's location and distances travelled for customer business during the duration of the training/consultancy, i.e. distance from the hotel to venue.

1 MILEAGE

Triaster will charge back to the Customer mileage as per the current Inland Revenue guidelines. This is currently 45 pence per mile.

2 SUBSISTENCE

All reasonable expenses for meals and refreshments purchased by Triaster staff whilst travelling to, from or during customer training or consultancy will be chargeable to the Customer.

3 HOTEL ACCOMMODATION

Triaster when having to stay overnight will book business standard (i.e. restaurant, room service, phone/internet access) hotels within the local area. The Customer can alternatively book their own hotels if they prefer, with breakfast and evening meals included. Triaster reserves the right to change a hotel booking where a hotel provides insufficient facilities or as travel plans are altered and will do this with as much notice as possible; however, any charges for cancellation will be borne by the Customer. Triaster will always book flexible rates, where these are offered, to minimise the risk of cancellation charges.

4 TRAVEL

Where Triaster books tickets (air/train) on behalf of a Customer where consultancy or training is to be supplied, all tickets will be purchased on a fully flexible basis. This is to ensure that in the event of a postponement or cancellation Triaster can redeem the ticket at no expense to the Customer. Where the Customer is not happy with flexible tickets being purchased, they can book and pay for the tickets directly. The Customer will however maintain full liability for any charges incurred for any travel cancellations or changes.

Triaster expects travel times which do not cause unnecessary delay or wait times at the airport/station and reserves the right to change tickets and recharge the Customer the full expense, where this would occur. Triaster expects Business Class travel for flights over eight hours, but shorter flights may be booked in Economy.

5 AIRPORT PARKING SERVICES AND AIRPORT TRANSFERS

Triaster will charge all costs for travelling to and from the airport along with any airport parking costs back to the Customer.

6 TAXIS

Triaster will charge the Customer for any journeys taken by taxi during the training/consultancy period, to and from the airport, hotel and Customer's premises.

7 PARKING

Wherever possible the Customer should provide a convenient parking space. Where this is not possible any parking charges incurred will be charged back to the Customer.

8 CAR HIRE

Where car hire is necessary this will be charged back to the Customer.

Schedule 2

Support Scope

This Schedule 2 provides a definition of the support requests for which Triaster will provide assistance.

1 BASIS OF UNDERSTANDING OF THE SUPPORT SCOPE

The primary purpose of the Triaster Support Service is to provide assistance and advice to suitably trained people who experience a difficulty when using the Triaster Software.

The support desk is staffed by skilled and fully trained support technicians. Support technicians are generally not experienced in providing class-based training or in providing consultancy services; therefore the support service is not intended to be a substitute for training, or to equip novices with the skills or knowledge they need to use the Triaster Software.

The Support Scope is restricted to requests fulfilling the following conditions:

- 1.1 Triaster Software released by Triaster within 5 years of the date of the support request;
- 1.2 Triaster Software running in an environment that meets the minimum requirements;
- 1.3 Requests from suitably trained Customer personnel who are agreed by Triaster as named contacts for support;
- 1.4 Organisations that have a current Master Agreement with Triaster for the supply of Support Services and that have paid the relevant fees;
- 1.5 In the case of the Publication Server or the Browser Toolkit ("**Server Software**") – the Server Software has not been modified since the last quality audit (see Scope Exclusion below for more information on this); and
- 1.6 Support pertaining to any of the following topics:
 - 1.6.1 any failure of the Triaster Software to operate in accordance with the Documentation;
 - 1.6.2 any error messages given by the Triaster Software or its installation routine;
 - 1.6.3 information relating to the behaviour of the Triaster Software under conditions that are not explicitly described in the Documentation, or explanation of such descriptions if the support recipient is having difficulty understanding the Documentation;
 - 1.6.4 use of any feature provided by the Triaster Software;
 - 1.6.5 advice and guidance on varying the Permitted Users;
 - 1.6.6 advice and guidance on optimal licensing strategies;
 - 1.6.7 explanation or clarification of minimum requirements;
 - 1.6.8 achieving optimal performance of the Triaster Software insofar as this can be enabled by features of the Triaster Software or its configuration; and

1.6.9 advice on planned changes to Server Software (including re-hosting and upgrading).

2 SCOPE EXCLUSION

Everything not explicitly stated in the list of included items given above is excluded from the Support Scope. To aid understanding, some of the excluded items are listed below:

- 2.1 Triaster Software released more than 5 years ago;
- 2.2 Triaster Software that is running in an environment that does not meet the minimum requirements;
- 2.3 Support requests from people who are not named contacts;
- 2.4 Failures in Server Software when a customer has attempted to independently install, upgrade or change the configuration of Server Software since the last quality audit without seeking proper instruction from the Triaster support and implementation team; and
- 2.5 All queries relating to:
 - 2.5.1 hardware (apart from those relating to advice on the minimum requirements);
 - 2.5.2 non-Triaster software;
 - 2.5.3 customisations of the Triaster Software that have not been approved by Triaster;
 - 2.5.4 how to customise the Triaster Software; and
 - 2.5.5 achieving optimal performance of the Triaster Software by means not explicitly included in the Support Scope.

**Schedule 3
Form of Certificate**

To: Triaster Limited

From: [Customer]

Date: [•]

Triaster Software Licence - Master Agreement dated [•]

We hereby certify that as at [DATE] all copies of the Triaster Software (including backups) and any Triaster Confidential Information have been permanently deleted from our network and live systems. We certify that all staff, employees and personnel have been instructed to discontinue use of the Triaster Software and Licensed Content.

Signed by []

Director for and on behalf of [Customer]

Schedule 4

Hosting Terms

Where the Customer elects for Triaster to host the Triaster Software on its servers on behalf of the Customer, the following additional provisions shall apply:

In this Schedule 4 the following defined terms have the meaning set out below:

- 1 Triaster shall install the Triaster Software on designated servers and provide services to enable the Customer to access and use the Triaster Software and Libraries. Triaster shall carry out acceptance testing to verify that the Triaster Software and IT infrastructure are functioning in accordance with the specification set out in the relevant Customer Order Form and the provisions of clauses 3.3 and 3.4 shall apply.
- 2 Triaster shall use reasonable efforts to make the Triaster Software available to the Customer to use 24 hours a day seven days a week except for planned maintenance which shall be notified in advance or unscheduled maintenance which may be undertaken with or without notice.
- 3 Triaster and the Customer acknowledge that the Customer shall own all right, title and interest in and to all of the Customer Content, and the Customer shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Content. The Customer shall not access, store, distribute or transmit any viruses, Trojan horses or malicious codes, or any material during the course of its use of the Services:
 - 3.1 that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - 3.2 that facilitates illegal activity;
 - 3.3 that depicts sexually explicit images;
 - 3.4 that promotes unlawful violence;
 - 3.5 that is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
 - 3.6 in a manner that is otherwise illegal or causes damage or injury to any person or property;and Triaster reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches these restrictions.
- 4 Triaster shall regularly back-up and archive Customer Content in accordance with its policies notified to the Customer from time to time. In the event of any loss or damage to Customer Content, the Customer's sole and exclusive remedy shall be for Triaster to use reasonable commercial endeavours to restore the lost or damaged Customer Content from the latest back-up of such Customer Content maintained by Triaster or its third party supplier in accordance with the archiving procedure.

- 5 The Customer acknowledges that Triaster is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the hosting environment may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 6 The hosting capacity shall be pre-paid by the Customer at the rates set out in the relevant Customer Order Form. From time to time, the Customer may purchase additional hosting capacity by submitting a written request specifying the hosting capacity required. Triaster shall confirm the Hosting Charges applicable to the request within 5 days, and the Customer shall submit a completed Customer Order Form which shall be an offer to buy the additional hosting capacity subject to the Master Agreement, and the Customer shall pay the applicable Hosting Charges. Where the offer is accepted by Triaster, and the Customer pays the applicable Hosting Charges, the Customer Order Form shall be appended to, and form part of this Master Agreement. Triaster shall release the additional hosting capacity which shall extend the duration of the hosting of the Triaster Software for the applicable term. For the avoidance of doubt, Triaster shall not have any obligation to provide any hosting of the Triaster Software unless or until a completed Customer Order Form has been accepted, and signed by both parties, and the applicable Hosting Charges have been paid in full by the Customer.
- 7 On expiry of the pre-paid hosting capacity, Triaster may immediately withdraw access to the Triaster Software via the Hosting Services. Termination of the hosting environment does not affect the Licence, or the continuity of the Master Agreement which may only be terminated in accordance with its terms.

This Master Agreement has been executed and delivered on the date stated at the beginning.

Signed by
on behalf of **TRIASTER LTD:**

} _____
Director

Signed by
on behalf of **[INSERT NAME OF COMPANY] LIMITED:**

} _____
Director