



LICENCE, TRAINING AND SERVICES AGREEMENT

THIS AGREEMENT (hereafter called the "Agreement") is made BETWEEN:

(1) Triangle Consulting Social Enterprise Ltd, a company registered in England and Wales, Company Number 07039452, whose Registered Office is at Preston Park House, South Road, Brighton, East Sussex BN1 6SB, United Kingdom ("Triangle");
AND

(2) the client as specified in the Quote ("Client")

(each of Triangle and the Client being a "party" and together the "parties").

1 DEFINITIONS, APPLICATION AND ACCEPTANCE OF THIS AGREEMENT

1.1 In this Agreement (which term includes the Schedules, the Quote, the Confirmation Email and any other documents or terms properly incorporated in accordance with Clause 1.3) terms shall have the meaning given in applicable Data Protection Laws from time to time and the following expressions shall have the following meanings:

1.1.1 “Client Data” means all and any data inputted by the Client, Client Personnel or Triangle on the Client’s behalf, for the purpose of signing up to and using the Triangle Software or facilitating the Client’s use of the Triangle Software, or processed by Triangle in connection with this Agreement, and shall include all data that relates to the Client, Client Personnel or the Client Service Users and Personal Data.

1.1.2 “Client Service Users” means persons or organisations who use the relevant services provided by the Client and who are registered and/or recorded as such.

1.1.3 “Client Personnel” means the persons who are employed by or sub-contracted or voluntarily providing services to either the Client directly or to any other person providing services to the Client and who use the Licensed Intellectual Property in any way and/or in any format or on any media.

1.1.4 “Confirmation Email” means the email which is sent from Triangle to the Client, confirming by reference to the Quote the agreed details of the Licence as well as any Services and Triangle Training.

1.1.5 “Data Protection Laws” means, as binding on either party or the Services:

1.1.5.1 the GDPR;

1.1.5.2 the Data Protection Act 2018;

1.1.5.3 any laws which implement any such laws; and

1.1.5.4 any laws that replace, extend, re-enact, consolidate or amend any of the foregoing.

1.1.5.5 “GDPR” means the General Data Protection Regulation (Regulation (EU) 2016/679).

- 1.1.6 "Intellectual Property Rights" means all vested, contingent and future intellectual property rights, including but not limited to: software, copyright, trademarks, design rights, trade names, patents, know-how, trade secrets, database rights or any similar right exercisable in any part of the world, including any application for the registration of any patents or registered designs or similar registrable rights in any part of the world.
- 1.1.7 "Legacy Licence" means either a Licence Type 2 or Licence Type 3 as defined and granted under the previous form of Triangle licence agreement, with a Licence Initial Term beginning before 1st May 2023 or a renewal date before 1st August 2023.
- 1.1.8 "Licence" means the licence granted by Triangle to the Client in Clause 3.1 subject to the terms of this Agreement.
- 1.1.9 "Licence Commencement Date" is the date upon which the Licence is deemed to commence in accordance with Clause 2.1.
- 1.1.10 "Licence Fee" means any fee due for the Licence after the Licence Initial Term and upon automatic annual renewal.
- 1.1.11 "Licence Initial Fee" means the initial fee for the Licence as specified in the Quote.
- 1.1.12 "Licence Initial Term" is the 12-month initial period of the Licence, unless stated otherwise in the Quote or Confirmation Email or subsequent email in accordance with Clause 1.3.
- 1.1.13 "Licence Term" is the Licence Initial Term plus any further periods of the Licence as automatically renewed under Clause 2.3.
- 1.1.14 "Licensed Intellectual Property" or "Licensed IP" means Intellectual Property Rights which Triangle owns or has been granted rights to and has licensed to the Client for use under the terms of this Agreement - comprising each of the published versions of the Outcomes Star listed on <http://www.outcomesstar.org.uk>, materials relating to training and the use of the Outcomes Star, and/or any other Materials or Triangle Software created by Triangle. The Licensed Intellectual Property includes, but is not limited to, the names of each Outcomes Star version, the Outcomes Star graphics, the outcome areas, Journey of Change stage names, and short and long scale descriptors in the Materials.
- 1.1.15 "Licensed Service Providers" are providers acting under licence from Triangle to provide training, services and/or licences that are bound by and acting in accordance with the GDPR.

- 1.1.16 “Licensed Software Provider(s)” are organisations who own and operate Non-Triangle Software and who are licensed by Triangle to provide access to the Licensed Intellectual Property. A list of active Licensed Software Providers is always available at www.outcomesstar.org.uk/licensed-software-providers.
- 1.1.17 "Materials" means any software, source code and object code, HTML code, data, drawings, documents, designs, transparencies, photos, graphics, logos, typographical arrangements, calculations, algorithms, models, information, goods, products, firmware, documented methodology or process, documentation or other materials whatsoever in either or both human readable or machine-readable form that wholly or partly contain or have been developed from the Licensed Intellectual Property.
- 1.1.18 “Non-Triangle Software” means any software not provided by Triangle, in which the Licensed Intellectual Property could be reproduced or used, including software owned by the Client, software owned by a third-party and managed by the Client or software owned and managed by a Licensed Software Provider.
- 1.1.19 "Outcomes Star" means the suite of tools that support and measure change for service users or communities as contained on the Triangle Websites, which form part of the Licensed Intellectual Property.
- 1.1.20 “Outcomes Star Online System” means the part of the Triangle Software that provides the ability to record Client Service Users information, complete the Outcomes Star assessment on screen, analyse the data and produce reports.
- 1.1.21 “Personal Data” means data which relates to a living individual who can be identified either from that data alone, or from that data and other information which is in the possession of the recipient of the aforesaid data.
- 1.1.22 “Processing” has the meaning given in applicable Data Protection Laws from time to time (and related expressions, including process, processed and processes shall be construed accordingly).

- 1.1.23 "Protected Data" means Personal Data received from or on behalf of the Client in connection with the performance of Triangle's obligations under this Agreement.
- 1.1.24 "Quote" means the written quotation sent by Triangle to the Client setting out details of the number of Client Personnel covered by the Licence, Triangle Training and Services to be provided and the costs of such Licence, Triangle Training and Services.
- 1.1.25 "Services" means any services other than the Triangle Training.
- 1.1.26 "Schedule" means any schedule to this Agreement.
- 1.1.27 "Sub-Processor" means any agent, subcontractor or other third party (excluding its employees) as listed in Schedule 1 who is engaged by Triangle for carrying out any processing activities on behalf of the Client in respect of the Protected Data.
- 1.1.28 "Triangle Training" means any training services to be provided by Triangle to the Client as more particularly described in the Quote and confirmed by the Confirmation Email and any subsequently agreed training services.
- 1.1.29 "Triangle Software" and "Triangle Software Services" means the online computer software program and applications, including the Materials, which can be accessed and used through the Triangle Websites.
- 1.1.30 "Triangle Websites" means www.outcomesstar.org.uk and www.staronline.org.uk and any future websites delivering the Triangle Software and/or Materials.
- 1.1.31 "Working Day" means any Monday to Friday inclusive, from 9am to 5pm GMT, but excluding all public holidays in England and/or Wales.
- 1.2 References to persons include individuals, unincorporated bodies, government entities, companies and corporations.
- 1.3 No terms or conditions endorsed on, delivered with, or contained in the Client's purchase order, confirmation of order, specification or other document will form part of the Agreement unless expressly agreed otherwise in writing signed by duly authorised signatories of both parties.
- 1.4 The sending of the Quote to the Client constitutes an Invitation to Treat by Triangle to the Client on the terms of the Quote and this Agreement, unless there is a manifest error in the Quote. The online acceptance by the Client of the Quote and this Agreement shall constitute the Client's Offer to Triangle and no binding contract shall come into force until Triangle Accepts the Offer by sending the Confirmation Email to the Client, save to the extent of any manifest error in the Quote.

2 LICENCE COMMENCEMENT, TERM AND RENEWAL

- 2.1 Unless otherwise agreed, the Licence Initial Term is deemed to commence on the first day of training services delivered to the Client and Client Personnel in the use of the Outcomes Star and the Licensed Intellectual Property. Triangle shall subsequently email the Client to confirm the Licence Commencement Date and Licence Initial Term.
- 2.2 If the Client does not pay on time the Licence Initial Fee in respect of the Licence Initial Term or the Licence Fee in respect of any subsequent term, Triangle may withhold from the Client any authorisation codes that are needed to access and use the Licensed Intellectual Property and may at any time immediately terminate the Licence.
- 2.3 Unless otherwise agreed, the Licence is automatically renewed for 12 months at the end of the Licence Initial Term or any subsequently renewed Licence period, unless the Client notifies Triangle otherwise in writing at least 30 days before the end of the Licence Initial Term (or as otherwise described in the Quote or Confirmation Email), or at least 30 days before the end of any subsequently renewed Licence period. Subject to Clause 13.3, the Licence Fee is non-refundable.

3 RIGHT AND GRANT OF LICENCE

- 3.1 Subject to the provisions of this Agreement, Triangle grants to the Client from the Licence Commencement Date a non-exclusive licence with the following rights:
- 3.1.1 The Client shall have the right, in accordance with this Agreement, to use all or any part of the Licensed Intellectual Property and the Triangle Software with up to the number of Client Personnel as defined in the Quote, for use with the Client's Service Users;
- 3.1.2 Permission to use the Licensed Intellectual Property for its own internal organisational purposes in such a way as the Licensed Intellectual Property is intended to be used, as documented in the Materials, unless the Client has Triangle's express written agreement otherwise;
- 3.1.3 Access to the Outcomes Star Online System and access to Licensed Intellectual Property including full-length documentation of all published versions of the Outcomes Star, and permission to use Licensed Intellectual Property with Client's Service Users, including:
- 3.1.3.1 *The ability to record data relating to Client Service Users and other data in Outcomes Star Online System;*
 - 3.1.3.2 *The ability to complete an Outcomes Star assessment with a Client Service User using the Outcomes Star Online System; and*
 - 3.1.3.3 *The ability to analyse the aforesaid data and run and download reports within the Outcomes Star Online System;*
 - 3.1.3.4 *Permission to request to use the Licensed Intellectual Property in Non-Triangle Software whereby either:*
 - 3.1.3.4.1 *The Non-Triangle Software is not provided by an active Licensed Software Provider, and therefore Triangle will instigate an approval process before entering into a separate Licence to use Licensed IP in Non-Triangle Software Agreement (copy available on request);*
 - 3.1.3.4.2 *The Non-Triangle Software is provided by an active Licensed Software Provider and therefore no additional agreement is required.*

3.1.3.5 *Permission to reproduce the Licensed IP subject to the following conditions:*

3.1.3.5.1 *The format is designed for use in hard copy and by Client Personnel under the Licence only, or the format is a spreadsheet into which data from hard copies of the Licensed Intellectual Property is entered; and*

3.1.3.5.2 *The Client has sought and received written permission from Triangle; and*

3.1.3.5.3 *All copyright notices and any other proprietary notices are reproduced in accordance with Clause 14;*

3.1.3.6 *Permission to print copies of the Licensed Intellectual Property and Materials and combine them with the Client's own assessment and review paperwork in hard copy format as is reasonably necessary for use with Client Service Users, other necessary use, back-up, archival and other reasonable purposes, provided that all copyright notices and/or other proprietary notices are reproduced on any such copies in accordance with Clause 14. The Licence shall apply to all such copies as it applies to the Materials;*

3.2 If the Client has a valid Legacy Licence, the Client has permission to use the Licensed IP in Non-Triangle Software provided that either of the below are true:

3.2.1 The use of the Licensed IP in Non-Triangle Software received written approval from Triangle before 1st May 2023; or

3.2.2 The Client started using a Licensed Software Provider before 1st May 2023.

3.3 If the Client has a valid Legacy Licence and uses a Licensed Software Provider, to enable Triangle to verify the number of Client Personnel using the Licensed IP the Client hereby authorises Triangle to request and receive from the Licensed Software Provider regular reports of the number of Client Personnel using the Licensed IP and the number of Outcomes Stars and assessments created during the reporting period. For the avoidance of doubt, Triangle will never request Personal Data relating to any Client Personnel or Client Service Users.

3.4 All Client Personnel using the Licensed Intellectual Property with the Client Service Users must be duly authorised under the Licence and duly trained in accordance with Clause 6.1.

4 PAYMENT OF FEES AND CHARGES, INVOICES

- 4.1 The Licence Initial Fee must be paid on or before the Licence Commencement Date. In respect of fees and charges for Services and face-to-face Triangle Training, Triangle will invoice once the Client has accepted a Quote and Triangle has issued the Confirmation Email. Payment must be made in full within 30 days of invoice date by BACS transfer (details on the invoice) or cheque made out to Triangle Consulting Social Enterprise Ltd.
- 4.2 The Licence Fee for any period after the Licence Initial Term must be paid in full by the Client within 30 days of invoice date by BACS transfer (details on the invoice) or cheque made out to Triangle Consulting Social Enterprise Ltd.
- 4.3 If any invoice is not paid on the due date, then Triangle shall have the right to:
 - 4.3.1 cease or suspend any use of the Licensed Intellectual Property including Triangle Software; and
 - 4.3.2 suspend delivery of any Triangle Training or Services until such payment has been received; and
 - 4.3.3 charge interest on overdue invoices at a rate of 10% per annum above the Base Rate of the Bank of England from time to time in force, from the date when payment becomes due from day to day until the date of cleared full payment; and
 - 4.3.4 charge reasonable expenses and costs in recovering the amount due of any overdue invoices.
- 4.4 Triangle may from time to time amend its charges and shall publish any such amended charges on the Triangle Websites, including those related to potential annual increases to adjust for inflation. Triangle shall also email the Client to advise of any such amendment (a "Charges Email") before any amended payment might be due from the Client.
- 4.5 Invoices are subject to the applicable VAT (Value-Added Tax is the UK sales tax). If the Client is outside the UK Triangle will advise if VAT needs to be added.

5 SUPPLY OF WEBSITES, MATERIALS AND TRIANGLE SOFTWARE SERVICES

- 5.1 Details to activate access to the Triangle Software will be provided by email to the Client Personnel nominated by the Client.

- 5.2 Triangle reserves the right to suspend the Triangle Software Services and/or any use or access to the Triangle Websites, without liability, where necessary, particularly with regard to maintenance and/or development of the Triangle Software or for any reason beyond Triangle's control.
- 5.3 The Client is responsible for ensuring that the Triangle Software is accessed using equipment of at least the following specification:
 - 5.3.1 Devices with internet access and minimum memory of 4GB (standard required for web browsing);
 - 5.3.2 Browser compatibility of the latest supported versions of Chrome, Internet Explorer, Edge or Safari;
 - 5.3.3 Ability for users to receive emails from support@staronline.org.uk – this email address not to be blocked by internal security;
 - 5.3.4 Users to have unique email addresses and be able to access their own inbox.
- 5.4 The Client is solely responsible for any data or anything which the Client or Client Personnel input into the Triangle Software, and the Client must ensure that such data or anything input:
 - 5.4.1 is not abusive, defamatory, obscene, or illegal or infringes any third-party intellectual property rights; and
 - 5.4.2 meets the Client's obligations under Data Protection Laws and/or any corresponding laws or regulations relating to information sharing, consent, safeguarding requirements.
- 5.5 The Client is always recommended to maintain a copy of any data input into the Triangle Software and to retain a copy of any Materials.
- 5.6 Any report or documentation which forms part of the Triangle Software will be in whatever format and contain whatever information Triangle, at their absolute discretion, deems appropriate.
- 5.7 Subject to timely and full payment of all fees due to Triangle under this Agreement and for the duration of the Licence:
 - 5.7.1 the Licensed Intellectual Property shall be supported by a named Triangle contact for each Client who will answer relevant queries by phone or email in a timely manner; and
 - 5.7.2 The Client must nominate one person, the "Star Online Account Lead", to be responsible for the management of the Triangle Software on behalf of the Client;

- 5.7.3 Triangle aims to provide a response, by e-mail or telephone, within 2 Working Days. If the problem is not capable of immediate resolution, then Triangle will provide a timeframe for the response within a further 2 Working Days;
- 5.7.4 Each Star Online Account Lead has access to up to 1 hour of this support for each month in which a Licence has been purchased. If the Star Online Account Lead requires further support, then this can be purchased as needed, or may be provided free of charge at Triangle's sole discretion;
- 5.7.5 If there is a problem with Triangle Software, the Client should notify Triangle via the Helpdesk (support@staronline.org.uk.) Triangle will classify the notification and respond within 2 working days. A notification will be classified as an urgent problem if a user is prevented from accessing Triangle Software or if it may result in a data loss or breach. We aim to resolve urgent problems within 5 working days from initial response. A notification will be classified as a non-urgent problem where the software is not working in the way it should be as documented in the Help Centre. We will aim to resolve non-urgent problems within 30 working days. If Triangle cannot rectify the problems within the timeframes stated above, on request Triangle will provide the Client with a refund of the corresponding portion of the Licence Fee, as normally depreciated. Where a notification is not classified as a problem, it will be classified as a change. Changes are subject to full discretion of Triangle.
- 5.8 Clients accept that Triangle Software shall use a limited number of strictly necessary cookies that are required to support the performance of the software. Cookies that are not strictly necessary for the functioning of Triangle Software will not collect or use any personal data.

6 TRIANGLE TRAINING

- 6.1 The Client must ensure that all Client Personnel who use the Licensed Intellectual Property with Client Service Users have completed training from a trainer employed or licensed by Triangle.
- 6.2 Details of any required training will be provided in the Quote and any directly related correspondence between Triangle and the Client. The Client agrees to accept and pay for the Triangle Training subject to the following terms.
- 6.3 Triangle shall perform the Triangle Training with all reasonable skill and care in accordance with good industry practice.
- 6.4 Basis of charges for Triangle Training:
- 6.4.1 Triangle will quote the Client a fixed fee for the delivery of the Triangle Training depending on the group size;

6.4.2 for face-to-face training, Triangle will charge for expenses incurred in the delivery of the Triangle Training (travel at standard rates, subsistence, and hotel if 1 or more overnight stays are required) in addition to this.

6.5 Client obligations for Triangle Training – the Client will:

6.5.1 provide Triangle with all necessary information, facilities, support and services reasonably required by Triangle for the performance of the Triangle Training;

6.5.2 if the Triangle Training is held at premises owned or rented by the Client, provide the Triangle Training venue equipment reasonably requested by Triangle, and ensure that participants know the timing and location of the Triangle Training. Unless otherwise agreed, Triangle will provide the Triangle Training materials;

6.5.3 take all reasonable steps to ensure the health and safety of Triangle's representatives while they are at the Client's premises;

6.5.4 ensure that its representatives co-operate fully with Triangle in relation to the provision of the Triangle Training;

6.5.5 be fully responsible for all applications, data, interfaces, hardware and equipment within its control which are required for the Triangle Training unless agreed otherwise. This includes for remote training ensuring that all participants can access and use the online platform specified by the client organisation.

6.6 Cancellation and postponement charges for Triangle Training:

6.6.1 Triangle will make no charge if the Client gives Triangle written notice at least 16 Working Days prior to the date of the event.

6.6.2 If the Client cancels or postpones between 6-15 Working Days before the event, Triangle will charge half the agreed fee plus any expenses reasonably and necessarily incurred in advance.

6.6.3 If between 5 and 1 Working Days' notice is given Triangle will charge three quarters of the full fee plus any expenses reasonably and necessarily incurred in advance.

6.6.4 If less than 1 Working Days' notice given, Triangle will charge the full fee plus any expenses reasonably and necessarily incurred in advance.

6.7 If Triangle's trainer is prevented from delivering the Triangle Training by illness or unforeseen circumstances caused by Triangle, Triangle will use its best efforts to find a replacement trainer. If Triangle is unable to find a suitable trainer, Triangle will reschedule the Triangle Training for a mutually convenient date at no extra cost to the Client.

- 6.8 If Triangle's trainer is prevented from delivering Triangle Training by an unforeseen circumstance caused by the Client, this will be treated as a cancellation event and Clause 6.6 will apply.
- 6.9 Unless the Client requests otherwise in writing, Triangle may publicise that Triangle is training the Client. In doing so, Triangle will never disclose Personal Data. The Client may give Triangle notice at any time to cease publicising such information.
- 6.10 If the Client is based in a country with a Licensed Service Provider, their terms and conditions will apply for Triangle Training.

7 SERVICES

- 7.1 Details of any Services required by the Client will be set out in the Quote and confirmed by the Confirmation Email and the Client agrees to accept and pay for the Services subject to the following terms.
- 7.2 The Services are provided at the Client's request and the Client accepts that it is responsible for providing accurate specifications for the Services and for verifying that the details set out in the Quote for the Services or in any subsequent services agreement properly incorporated in accordance with Clause 1.3 are suitable for its own needs.
- 7.3 Triangle shall perform the Services with all reasonable skill and care in accordance with good industry practice.
- 7.4 Triangle will quote the Client a fee for the delivery of the Services. In addition to this Triangle will charge for expenses directly incurred in the delivery of the Services (eg travel at standard rates, subsistence, and hotel if 1 or more overnight stays is required).
- 7.5 Client obligations for Services - the Client will comply with Clause 6.5 as though all references to "Triangle Training" are replaced by "Services".
- 7.6 To cancel any Services, the Client shall provide 4 weeks' written notice in advance of the agreed date of Service delivery. Triangle reserves the right to ask the Client to reimburse Triangle for any work Triangle may have completed by time of cancellation, plus any expenses incurred in advance. If the cancellation occurs with less than 4 weeks' notice, Triangle reserves the right to charge up to the full amount agreed in the Quote (and any subsequent agreement) to reflect all the work Triangle may have done by that time in order to prepare and deliver the Services to the Client but shall make allowance in respect of any aspect of the Services that has not been completed at that time.
- 7.7 Cancellation of Services will not terminate any Triangle Training that has been agreed or Licence that has been granted.
- 7.8 If the Client is based in a country with a Licensed Service Provider, their terms and conditions will apply for Services.

8 DATA PROTECTION

- 8.1 Triangle shall comply with Data Protection Laws and the provisions set out in Schedule 1 in relation to any Personal Data transferred from the Client or Client Personnel or Authorised Third Parties (as defined below) to Triangle and shall provide on its website the appropriate privacy notices with full details of how it handles and protects all Client Data.
- 8.2 If the Client is authorised by Triangle in writing to share the Licence and access to the Triangle Software with other organisations (“Authorised Third Parties”) then the Client warrants that it shall ensure that all Authorised Third Parties comply with Data Protection Laws in respect of any Personal Data they may input into the Triangle Software.
- 8.3 The Client shall fully indemnify Triangle against any actions, claims, demands, proceedings, damages, costs and expenses arising from any breach of Data Protection Laws by any Authorised Third Parties or by any Client Personnel or any other person using the Client’s Triangle Software access rights in respect of any Personal Data they have input into the Triangle Software.
- 8.4 Triangle shall seek the Client’s consent if Triangle and/or their Licensed Service Providers wishes to contact representatives of the Client for marketing purposes about the Outcomes Star and services.
- 8.5 Subject to Clause 9, the Client owns and shall at all times own all rights, title and interest in and to all of the Client Data and Triangle shall have no right to use or access Client Data except as necessary to perform its obligations under this Agreement.
- 8.6 In the event of any loss or damage to Client Data, Triangle shall at its own cost restore the lost or damaged Client Data from the latest back-up of such Client Data maintained by Triangle unless it has already been deleted as part of Triangle’s compliance with Data Protection Laws.

9 PERSONAL DATA

- 9.1 The Client agrees that Triangle and only the named sub-processors may use Client Data (including Client Service User Protected Data) solely to perform its and their respective obligations under this Agreement, including (without limiting the generality of the foregoing) providing support via Triangle's helpdesk and for Triangle's continuous development of the Outcomes Star Online System and Triangle Software, and the Client shall obtain any necessary consents to allow the aforesaid use of data.
- 9.2 Triangle will not use Protected Data of Client Service Users to contact Client Service Users for any marketing purposes or any purposes not permitted by this Agreement.
- 9.3 Triangle shall use appropriate administrative, organisational, technical and physical safeguards to protect the personal information it collects and processes, including two factor authentication via email.
- 9.4 The Client consents to allow Triangle to use any data input into the Outcomes Star Online System (other than Personal Data) to collate general information provided that it does not reveal the identity of the Client, Client Personnel or Client Service Users:
 - 9.4.1 to provide anonymised summary data to any system users, not just Client Personnel;
 - 9.4.2 for research purposes; and
 - 9.4.3 for such other purposes that Triangle in their sole and reasonable discretion deems fit, provided that such collated data does not identify either the Client or any Client Service Users without the express written permission of the Client.

10 COMPLIANCE, DBS CHECK

- 10.1 Triangle endeavours to be aware of and comply with every relevant legal requirement (including EU and UK standards) relating to the services supplied. Triangle is registered with the Information Commissioner's Office (ICO) and complies with the GDPR.
- 10.2 If legally required due to the circumstances of delivery of training services or operating the Triangle Software, Triangle will check with the Disclosure and Barring Service ("DBS") all staff employed or (if any) volunteers engaged to provide or supervise the provision of such services.

11 CLIENT OBLIGATIONS AND UNDERTAKINGS

- 11.1 The Client is solely responsible for:
 - 11.1.1 ensuring that the Licensed Intellectual Property is accessed and used only by the Client and their licensed Client Personnel;
 - 11.1.2 the Client's and Client's Personnel access and use of the Licensed Intellectual Property and Triangle Software;
 - 11.1.3 ensuring that any use of the Licensed Intellectual Property and Triangle Software is lawful, in a professional manner and complies with the terms of this Agreement;
 - 11.1.4 all passwords and data which may be used in connection with the Licensed Intellectual Property;
 - 11.1.5 any data, software or anything which the Client and/or Client Personnel use with, on or in connection with the Licensed Intellectual Property, to include ensuring that such data or anything input is not abusive, defamatory, obscene, illegal or infringes any third-party Intellectual Property Rights; and
 - 11.1.6 ensuring that the Client and Client's Personnel do not access or attempt to access any Licensed Intellectual Property for which they know or have a reasonable suspicion that they do not have a valid and current licence.
- 11.2 Except to the extent permitted by this Agreement or to the extent permitted by law, the Client undertakes not to:
 - 11.2.1 copy, disassemble, decompile, reverse engineer, vary, adapt, modify or translate the Licensed Intellectual Property, without the prior written consent of Triangle;

- 11.2.2 delete, vary or obscure any copyright or other proprietary notices;
- 11.2.3 rent, lease, sub-license, assign, transfer or distribute, translate, disassemble, decompile or reverse engineer the Licensed Intellectual Property or any rights whatsoever to use it;
- 11.2.4 use the Licensed Intellectual Property for any use or activity which breaches any law or regulation or invades or infringes the rights of others and any other activity that Triangle, in their absolute and reasonable opinion, deems to be harmful, including using the Triangle Software for sending unsolicited commercial e-mailing or for any illegal access to other computers or networks, distributing internet viruses or similar destructive activities or any illegal activity;
- 11.2.5 use or attempt to use any Licensed Intellectual Property, particularly, but not limited to that which forms part of Non-Triangle Software, for which they know or have a reasonable suspicion that they do not have a valid Legacy Licence or is not covered by a separate Licence to use Licensed IP in Non-Triangle Software Agreement;
- 11.2.6 make copies of the Triangle Software or any part thereof, in whole or part, except for applicable back-up or copy purposes as permitted in this Agreement.
- 11.3 The Client undertakes during the continuance of the Licence:
 - 11.3.1 to keep access to the Licensed Intellectual Property, including passwords and all copies of the Materials, under the Client's effective control and to maintain adequate security measures to protect the Licensed Intellectual Property from access or use by any unauthorised person;
 - 11.3.2 to ensure that, prior to the use of the Licensed Intellectual Property by its Client Personnel or agents, all such parties are notified of the relevant terms of this Agreement;
 - 11.3.3 to maintain an accurate and up-to-date record of all use and copies of the Licensed Intellectual Property Materials and produce such record to Triangle on request from time to time;
 - 11.3.4 to ensure that any data or anything input into the Triangle Software or stored by the Client in connection with the Licensed Intellectual Property complies with the GDPR, or, if the Client is located outside of the European Union and has less stringent data protection legislation applicable in their country than the GDPR, to ensure that they deal with all such data to at least equivalent standards and requirements of the GDPR;
 - 11.3.5 to ensure adequate control over all Client Personnel;

- 11.3.6 to comply with all reasonable instructions provided by Triangle to the Client;
and
- 11.3.7 to grant Triangle a non-exclusive, worldwide and royalty-free licence to edit, modify, adapt, translate, exhibit, publish, transmit, participate in the transfer of, reproduce, create derivative works from, distribute, perform, display, and otherwise use any data or anything input into the Triangle Software by the Client as necessary (i) for the purposes of rendering and operating the Triangle Software Services to the Client, and (ii) for the collation and analysis of data which does not identify either the Client or the Client Service Users, subject always to the data protection provisions of Clause 8.

12 INTELLECTUAL PROPERTY RIGHTS

- 12.1 Aside from the licence provided within this Agreement of the Licensed Intellectual Property, all Intellectual Property Rights of whatever nature or connected in any way to the Triangle Software, the Triangle Websites and the Outcomes Star shall remain the property of Triangle and any third parties from whom Triangle has such right to use the Intellectual Property Rights.
- 12.2 The Client agrees to immediately notify Triangle, and in any event no later than 4 Working Days from the date it becomes aware, of any infringement or any unauthorised use of the Intellectual Property Rights by any person.

13 TRIANGLE INTELLECTUAL PROPERTY INDEMNITY AND CLIENT INDEMNITY

- 13.1 Triangle agrees to indemnify the Client against all actions, claims, proceedings, damages, costs and expenses arising from any actual or alleged infringement of Intellectual Property Rights arising from the Client's use of the Licensed Intellectual Property, provided such use is in accordance with the terms of this Agreement and that the Client promptly notifies Triangle in writing of any such allegation no later than 4 Working Days from the date it becomes aware of any allegation.
- 13.2 At Triangle's request and expense, the Client shall permit Triangle to conduct all negotiations and litigation in relation to Clause 13.1. The Client shall give all reasonable assistance and Triangle shall pay the Client's costs and expenses so incurred.
- 13.3 Triangle may, at its expense, modify or replace the Licensed Intellectual Property to avoid any alleged or actual infringement provided that any modification or replacement does not materially affect the performance of the Triangle Software. If Triangle is unable to modify or replace the Licensed Intellectual Property, then the Client shall not access the Licensed Intellectual Property and will return the Materials which are the subject of the Intellectual Property Rights claim, and Triangle shall refund to the Client the corresponding portion of the Licence Initial Fee or Licence Fee, as normally depreciated, whereupon this Agreement shall immediately terminate.
- 13.4 This indemnity shall not apply to infringements arising directly from the combination of the Licensed Intellectual Property with other items not supplied by Triangle.
- 13.5 The Client agrees that should they breach any part of this Agreement, then the Client undertakes to keep indemnified and hold harmless Triangle against all actions, claims, demands, settlements, liability costs and expenses arising out of or in connection with any such breach.

14 THE PROPRIETARY/COPYRIGHT NOTICE

- 14.1 Each time Triangle's Intellectual Property Rights are used in any way by the Client, the Client will acknowledge Triangle's rights by prominently inserting "© Triangle Consulting Social Enterprise Ltd. Used under licence. See www.outcomesstar.org.uk/"

15 WARRANTY

- 15.1 Whilst Triangle will use all reasonable endeavours to supply the Triangle Software, including but not limited to access to the Triangle Websites, Triangle will not be responsible for any failure to provide Triangle Software Services or any unavailability.
- 15.2 Triangle Software is provided on an "as-is" basis without warranty and the Client specifically agrees that Triangle cannot be responsible for any faults, failures, errors, or issues relating to the operation of the Triangle Software, nor the availability of updates and upgrades. In particular, Triangle cannot guarantee that access to the Triangle Software or any other services will be uninterrupted, secure or error-free. Triangle is not responsible for any events, such as crashes, which may result in data loss.
- 15.3 Triangle makes no warranty against electronic virus, worms or any other fault or defect or problems which may occur or arise as a result thereof, from any data, materials, documents or e-mail Triangle may send.
- 15.4 The Client is always recommended to maintain a copy of any data input into the Triangle Software and to retain a copy of any Materials. Triangle will not be responsible for any failure in back-up or maintenance of records.
- 15.5 In so far as allowed by law, Triangle makes no other warranty or claims (express or implied) in respect of the Licensed Intellectual Property and/or the Triangle Software and Triangle specifically disclaims any implied warranties of satisfactory quality or fitness for a particular purpose of the Licensed Intellectual Property and/or the Triangle Software. Triangle specifically does not warrant that the Licensed Intellectual Property and/or the Triangle Software will meet the Client's requirements, that the Triangle Software operation will be uninterrupted or error-free or is compatible with the Client's other software.
- 15.6 If the Client is not satisfied with the quality of the Services or Triangle Training or the Client has any other concern about the contact the Client has had with Triangle in relation to the Services or Triangle Training, the Client should contact info@triangleconsulting.co.uk within 7 days of completion of the Services or Triangle Training. Provided the appropriate fees have been paid in full by the Client, Triangle will, at their sole discretion, then rectify the problem or provide the Client with a refund of the corresponding portion of the Services or Triangle Training fee, as normally depreciated.

15.7 The remedies in Clauses 13.1, 13.3 and 15.6 are the Client's sole and exclusive remedies for claims in respect of the Licensed Intellectual Property and/or the Triangle Software and/or Services and/or Triangle Training.

16 EXCLUSION AND LIMITATION OF LIABILITY

16.1 Triangle accepts no liability for problems caused by any improper or unauthorised use of the Licensed Intellectual Property whatsoever.

16.2 Triangle will not be liable to the Client, without limitation, for any direct or indirect, special, incidental or consequential damages or loss, including but not limited to, any damages for loss of income, profits, revenue, anticipated savings, fines, penalties, any damage or loss or corruption of data, any damage or loss caused by a virus, use or failure to use incurred by the Client or any third parties, whether based in contract, tort or any other way whatsoever, even if Triangle has been advised of the possibility of such damages and whether such damages were reasonably foreseeable or actually foreseen.

16.3 In the event that Triangle would be held liable for any losses, then such total damages for any loss whatsoever, shall be limited, in relation to any one incident or series of related incidents, to the amount of Triangle's applicable insurance cover as referred to in Clause 18, or for any claim that is not covered by Triangle's insurances: (i) 100% of the Licence Initial Fee and Licence Fee paid in respect of claims relating to the Licensed Intellectual Property and/or the Triangle Software; (ii) 100% of the Triangle Training fee paid in respect of claims relating to the Triangle Training; and (iii) 100% of the Services fee paid in respect of claims relating to the Services.

16.4 The limitations of liability set out in this Clause 16 shall apply in respect of any indemnities given by Triangle under this Agreement.

16.5 Notwithstanding any other provision of this Agreement, Triangle's liability shall not be limited in any way in respect of the following: (a) death or personal injury caused by negligence, (b) fraud or fraudulent misrepresentation; or (c) any other losses which cannot be excluded or limited by applicable law.

17 CONFIDENTIALITY

- 17.1 Other than as provided for in this Agreement, either party receiving information ("the Recipient") from the other marked "confidential", or which may reasonably be supposed to be confidential, including, without limitation, information contained, used in or input as part of any services or Triangle Software and other information supplied by the Client or Triangle, shall not without the other's prior written consent use such information except for the purposes of this Agreement, or disclose such information to any person other than to their own employees or agents who have a need to know.
- 17.2 Clause 17.1 shall not apply to information that is lawfully known to the Recipient at the time of disclosure or which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this Clause), or which is ordered to be disclosed to a regulatory body or a court of competent jurisdiction.
- 17.3 The Recipient shall ensure that any person referred to in Clause 17.1 is bound by similar confidentiality terms to those in this Clause 17.
- 17.4 The confidentiality terms in this Clause 17 shall remain in full force and effect during the term of this Agreement and upon the termination of the Licence or this Agreement.

18 INSURANCE

- 18.1 For the duration of this Agreement Triangle shall maintain in force, with a reputable insurance company of Triangle's choice:
- 18.1.1 professional indemnity insurance cover of at least £5,000,000; and
- 18.1.2 public liability insurance cover of at least £10,000,000,
- 18.2 and shall, on the Client's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

19 AGREEMENT TERM AND TERMINATION

- 19.1 This Agreement is effective for the Licence Term and for the duration of provision of Triangle Training and/or Services, unless and until properly terminated by either party in accordance with the terms of this Agreement.
- 19.2 This Agreement shall automatically terminate if the Client (or Triangle reasonably believes that the Client) breaches or fails to comply with any term or part thereof of the Agreement and the Client does not remedy such breach within fourteen (14) days of written notice from Triangle. In such circumstances: any rights granted by this Agreement will immediately cease on termination and the Client will no longer access or use the Triangle Software and Materials and any copy in any format shall immediately be deleted in accordance with Triangle's instructions or be returned to Triangle, as Triangle shall specify. Completed paperwork, data collected, and digital records thereof stored during the Licence Term can be retained by the Client.
- 19.3 The Client may terminate the Licence by sending written notice to Triangle confirming that it has removed the Licensed Intellectual Property from all the Client's software systems and paperwork and stopped all access and/or use of the Software and Materials, in which event the Licence shall terminate 3 Working Days after Triangle receives the aforesaid notice but this shall not terminate either the Triangle Training or the Services which can only be cancelled in accordance with Clauses 6 and 7. The Licence Fee is non-refundable save as referred to in Clause 13.3.
- 19.4 In the event of termination of the Licence or the Agreement, if the Client is using the Licensed IP in Non-Triangle Software under the terms of a Legacy Licence and with a Licensed Software Provider, they are responsible for ending access to the Licensed Intellectual Property in the Non-Triangle Software; OR if they are not with a Licensed Software Provider, they are responsible for ending access and removing all reproductions of the Licensed Intellectual Property in the Non-Triangle Software.
- 19.5 In the event of termination of the Agreement the Client remains liable for all Agreement payments due up to the date of termination.
- 19.6 Following termination of the Agreement Triangle ordinarily retains in storage the data input into the Outcomes Star Online System resulting from the Agreement, for the purposes of and in accordance with the provisions in Clause 9. Triangle will only retain such data in storage in a format that is not Personal Data. If the Client would like Triangle to delete such data the Client may request such deletion in writing within 2 months of termination.
- 19.7 Any Clause in this Agreement which is clearly intended to continue after termination will remain in full force and effect after the termination of this Agreement.

20 CANCELLATION RIGHTS FOR INDIVIDUAL CONSUMERS

20.1 Whilst a client who is an individual acting outside of any business purposes is given certain cancellation and other rights under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (“the Regulations”), in view of the nature of the products and services provided, unless Triangle has agreed otherwise in writing, the Client acknowledges and agrees that the acceptance by the Client of this Agreement and the use of the Materials or Triangle Software have the same effect as the unsealing of sealed computer software and as such, even if the Client is an individual acting outside of any business purposes they will not have any cancellation or refund rights under the Regulations.

21 FORCE MAJEURE

21.1 Neither party shall be liable to the other party for any delay or failure to perform any of its obligations under this Agreement if the delay or failure results from events or circumstances outside its reasonable control, and the party shall be entitled to a reasonable extension of its obligations after notifying the other party in writing of the nature and extent of such events. If such circumstances continue for a continuous period of more than 28 days, either party may terminate this Agreement by written notice to the other party.

22 GENERAL

- 22.1 Any rights given cannot be transferred, sold, rented or shared in any way by the Client.
- 22.2 Triangle reserves the right to assign and/or sub-contract their obligations under this Agreement.
- 22.3 Failure or neglect by either party to exercise any of its rights or remedies under this Agreement will not be construed as a waiver of that party's rights, nor in any way affect the validity of the whole or part of this Agreement, nor prejudice that party's right to take subsequent action.
- 22.4 Each Clause or any part at all of this Agreement is to be regarded as independent of the others. This means that should any Clause or any part of this Agreement be found to be unenforceable or invalid, it will not affect the enforceability or validity of the rest of this Agreement.

23 NOTICES

- 23.1 Any notice to be given by either party to the other may be sent by either email, or recorded delivery to the most recent email address or address notified to the other party, and if sent by email, shall be deemed to be received on the day it was sent provided that the sender has proof of sending, or if sent by recorded delivery, shall be deemed to be served 2 Working Days following the date of posting.

24 ENTIRE AGREEMENT, VARIATION AND TERMINATION

24.1 The Agreement contains the entire agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written. The Agreement may only be varied either by:

24.1.1 written document signed by duly authorised signatories of both parties; or

24.1.2 Triangle publishing amendments to this Agreement on its website and communicating these to the Client by email (an “Amendment Email”) following which the Client shall be entitled to terminate the Agreement by giving at least 30 days written notice to Triangle within 10 days of the date of the Amendment Email and in the absence of any such termination notice the amendments shall become fully binding and effective 11 days after the date of the Amendment Email.

25 GOVERNING LAW AND JURISDICTION

25.1 The Agreement shall be governed by and construed in accordance with the laws of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England.

SCHEDULE 1 – Data Processing

PART A - OPERATIVE PROVISIONS

1 Definitions

- 1.1 In this Schedule terms shall have the meaning given in applicable Data Protection Laws from time to time or the meaning as defined in the Agreement.

2 Client's compliance with data protection laws

- 2.1 The parties agree that the Client is a Controller and that Triangle is a Processor for the purposes of processing Protected Data pursuant to this Agreement. The Client shall, at all times, comply with all Data Protection Laws in connection with the processing of Protected Data. The Client shall ensure all instructions given by it to Triangle in respect of Protected Data (including the terms of this Agreement) shall at all times be in accordance with Data Protection Laws.
- 2.2 The Client warrants and undertakes that all data sourced by the Client for use in connection with the Services shall comply in all respects, including in terms of its collection, storage and processing (which shall include the Client providing all of the required fair processing information to, and obtaining all necessary consents from, Data Subjects), with Data Protection Laws.

3 Supplier's compliance with data protection laws

- 3.1 Triangle shall process Protected Data in compliance with the obligations placed on it under Data Protection Laws and the terms of this Agreement.

4 Indemnity

- 4.1 The Client shall indemnify and keep indemnified Triangle against all losses, claims, damages, liabilities, fines, sanctions, interest, penalties, costs, charges, expenses, compensation paid to Data Subjects, demands and legal and other professional costs (calculated on a full indemnity basis and in each case whether or not arising from any investigation by, or imposed by, a supervisory authority) arising out of or in connection with any breach by the Client of its obligations under this Schedule.
- 4.2 Triangle shall indemnify and keep indemnified the Client against all losses, claims, damages, liabilities, fines, sanctions, interest, penalties, costs, charges, expenses, compensation paid to Data Subjects, demands and legal and other professional costs (calculated on a full indemnity basis and in each case whether or not arising from any investigation by, or imposed by, a supervisory authority) arising out of or in connection with any breach by Triangle of its obligations under this Schedule.

5 Instructions

- 5.1 Triangle shall only process (and shall ensure Sub-Processor personnel only process) the Protected Data in accordance with Section 1 of Part B of this Schedule and this Agreement (including when making any transfer to which paragraph 10 relates), except to the extent:
- 5.1.1 that alternative processing instructions are agreed between the parties in writing; or
- 5.1.2 otherwise required by applicable law (and shall inform the Client of that legal requirement before processing, unless applicable law prevents it doing so on important grounds of public interest).
- 5.2 Without prejudice to paragraph 2 of this Part A, if Triangle believes that any instruction received by it from the Client is likely to infringe the Data Protection Laws it shall promptly inform the Client and be entitled to cease to provide the relevant Services until the parties have agreed appropriate amended instructions which are not infringing.

6 Security

- 6.1 Taking into account the state of technical development and the nature of processing, Triangle shall implement and maintain the technical and organisational measures set out in Section 2 of Part B of this Schedule to protect the Protected Data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access.

7 Sub-processing and personnel

- 7.1 Triangle shall:

- 7.1.1 not permit any processing of Protected Data by any agent, subcontractor or other third party (except its or its Sub-Processors' own employees in the course of their employment that are subject to an enforceable obligation of confidence with regards to the Protected Data) without the prior written authorisation of the Client;
- 7.1.2 prior to the relevant Sub-Processor carrying out any processing activities in respect of the Protected Data, appoint each Sub-Processor under a written contract containing materially the same obligations as under this Schedule (including those relating to sufficient guarantees to implement appropriate technical and organisational measures) that is enforceable by Triangle and ensure each such Sub-Processor complies with all such obligations;
- 7.1.3 remain fully liable to the Client under this Agreement for all the acts and omissions of each Sub-Processor as if they were its own; and
- 7.1.4 ensure that all persons authorised by Triangle or any Sub-Processor to process Protected Data are subject to a binding written contractual obligation to keep the Protected Data confidential.

8 List of authorised sub-processors

- 8.1 The Client authorises the appointment of the Sub-Processors listed below:
- Quality Education Solutions Ltd

9 Assistance

- 9.1 Triangle shall (at the Client's cost) assist the Client in ensuring compliance with the Client's obligations pursuant to Articles 32 to 36 of the GDPR (and any similar obligations under applicable Data Protection Laws) taking into account the nature of the processing and the information available to Triangle.
- 9.2 Triangle shall (at the Client's cost) and taking into account the nature of the processing, assist the Client (by appropriate technical and organisational measures), insofar as this is possible, for the fulfilment of the Client's obligations to respond to requests for exercising the Data Subjects' rights under Chapter III of the GDPR (and any similar obligations under applicable Data Protection Laws) in respect of any Protected Data.

10 International transfers

- 10.1 Triangle shall not process and/or transfer, or otherwise directly or indirectly disclose, any Protected Data in or to countries outside the United Kingdom or to any International Organisation without the prior written consent of the Client.

11 Audits and processing

- 11.1 Triangle shall, in accordance with Data Protection Laws, make available to the Client such information that is in its possession or control as is necessary to demonstrate Triangle's compliance with the obligations placed on it under this Schedule and to demonstrate compliance with the obligations on each party imposed by Article 28 of the GDPR (and under any equivalent Data Protection Laws equivalent to that Article 28 of the GDPR), and allow for and contribute to audits, including inspections, by the Client (or another auditor mandated by the Client) for this purpose (subject to a maximum of 1 audit request in any 12 month period under this paragraph 11).
- 11.2 Triangle shall notify the Client without undue delay and in writing on becoming aware of any Personal Data Breach in respect of any Protected Data.

12 Deletion/return and survival

- 12.1 On the end of the provision of the Services relating to the processing of Protected Data, at the Client's cost and the Client's option, Triangle shall either return all of the Protected Data to the Client or securely dispose of the Protected Data (and thereafter promptly delete all existing copies of it) except to the extent that any applicable law requires Triangle to store such Protected Data. This Schedule shall survive termination or expiry of this Agreement indefinitely in the case of paragraphs 4 and 13 of this Part A and until 12 months following the earlier of the termination or expiry of this Agreement in the case of all other paragraphs and provisions of this Schedule.

PART B - DATA PROCESSING AND SECURITY DETAILS

Section 1—Data processing details

Processing of the Protected Data by Triangle under this Agreement shall be for the subject-matter, duration, nature and purposes and involve the types of Personal Data and categories of Data Subjects set out in this Section 1.

Subject-matter of processing: Outcomes measurement data, Client Personnel data, Service User data

Duration of the processing: Licence Term

Nature and purpose of the processing:

Recording and reporting of outcomes measurement data in the form of Star readings (scores entered against text descriptors), notes and action plans entered by the Client as a result of their work with Client Service Users.

Type of Personal Data:

Client Personnel: Staff names, email address, organisation name, location, service name, passwords (encrypted), last login date and time, activity (when they enter, delete or change service user data).

Client Service User: first name and surname, address, phone number, email, service user identifier, date of birth, gender, ethnicity, support needs (checkboxes are provided relating to the likely support needs depending on the Star used with a service user), dates for starting and ending support, action plans and notes.

Categories of Data Subjects:

Client Personnel and Client Service User

Section 2—Minimum technical and organisational security measures

In accordance with the Data Protection Laws, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing of the Protected Data to be carried out under or in connection with this Agreement, as well as the risks of varying likelihood and severity for the rights and freedoms of natural persons and the risks that are presented by the processing,

especially from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Protected Data transmitted, stored or otherwise processed, Triangle shall implement appropriate technical and organisational security measures appropriate to the risk, including, as appropriate, those matters mentioned in Articles 32(1)(a) to 32(1)(d) (inclusive) of the GDPR. Details of these measures are available on request.