QGate Master Services Agreement For QGate Software

Agreement Number: PRO00002

Document Version 6.6

This Agreement is dated 17/05/2021

PARTIES

(1) QGATE SOFTWARE LTD incorporated and registered in England and Wales with company number 03301336 whose registered office is at Ground Floor Cromwell House, 15 Andover Road, Winchester, England, SO23 7BT (**QGate**)

(2) QGATE SOFTWARE whose registered office is at 21912 Esplendor Mission Viejo, CA 92691 United States **(Customer)**

BACKGROUND

(A) QGate is in the business of providing the Available Services,

and

(B) The Customer wishes to obtain the Available Services on the terms set out in this agreement.

1. **DEFINITIONS AND INTERPRETATIONS**

     The following Definitions apply in this agreement:

     Affiliate: any entity that directly or indirectly controls, is controlled by, or is under common control with another entity.

     Applicable Laws: all applicable laws, statutes, regulation and codes from time to time in force.

     Available Services: the project based professional services as set out in *Schedule 2*.

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

     Business Hours: the period from 9.00 am to 5.30 pm on any Business Day.

     Charges: the Statement of Work Charges, the Support Service Order From Charges or either of them as the context requires.

     Confidential Information: all proprietary information of a party ("Disclosing Party") disclosed, orally or in writing, to the other party ("Receiving Party") that is designated or marked as confidential at the time of disclosure and/or reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information shall include, without limitation, the terms and conditions of this agreement (including pricing and other terms reflected in all Statements of Work and other orders), the data, business plans, technology and technical information, financial information, business strategies, practices procedures, methodologies, know-how, product designs, and business processes of each party. Confidential Information shall not include any information that is or becomes generally known to the public without breach of any obligation by the Receiving Party or was known to the Receiving Party prior to its disclosure or is rightfully received from a third party.

     Control: shall be as defined in section 1124 of the Corporation Tax Act 2010, and expression **Change of Control** shall be construed accordingly.

     Customer: The identified legal entity or group of legal entities related as wholly owned Parent/Subsidiaries

     Customer's Equipment: any equipment, including tools, systems, cabling or facilities, provided by the Customer, its agents, subcontractors or consultants which is used directly or indirectly in the supply of the Works including any such items specified in a Statement of Work.

     Customer Materials: all documents, information, items and materials in any form, whether owned by the Customer or a third party, which are provided by the Customer to QGate in connection with the Works.

     Data Protection Legislation: all applicable laws and regulations relating to the processing of Personal Data and privacy including the Data Protection Act 1998, the General Data Protection Regulation 2016/679, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any statutory instrument, order, rule or regulation made thereunder, as from time to time amended, extended, re-enacted or consolidated. The terms "Personal Data", "Data Controller", "Data Processor" and "process" (in the context of usage of Personal Data shall have the meanings given to them in the applicable Data Protection Legislation

     Deliverables: any output of the Works to be provided by QGate to the Customer as specified in a Statement of Work (excluding QGate's Equipment and any separate Software provided under License).

     Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Milestone: a date by which a part or all of the Works is to be completed, as set out in a Statement of Work.

Month: Means a calendar month.

Project Services: the delivery of one or more of the Available Services which may include the provision of consulting, training, development and other services as specified in a Statement of Work. as part of a project implementation or subsequent phase or enhancement.

QGate Policies and Procedures: QGate's business policies and procedures are published on the QGate site at https://www.qgate.co.uk/terms/

QGate's Equipment: any equipment, including tools, systems, cabling or facilities, loaned or provided by QGate to the Customer and/or used directly or indirectly in the supply of the Works, including any such items specified in a Statement of Work but excluding any such items which are the subject of a separate agreement between the parties under which title passes to the Customer.

QGate Tools: any specific know-how, information, Software or other materials, which have been developed by the QGate in the course of its business which are used in the supply of the Deliverables, the Works and/or the Services

Reference Charges: the standard charges for the Available Services or the framework for calculating them as set out in *Schedule 2*.

Services: Project Services and/or Support Services as the context requires.

Software: means any readily available proprietary software application (including as applicable Software as a Service) whether supplied to the Customer by QGate, an independent vendor or other third party.

Software Licence: means the customer rights to use and distribute the Software issued by QGate, vendor or third-party, may also be referred to as the End User Licence Agreement (EULA).

Statement of Work Charges: the sums payable for the Works as set out in a Statement of Work.

Statement of Work: a detailed plan, agreed in accordance with Clause 3, describing the services to be provided by QGate, the timetable for their performance and the related matters listed in the template statement of work set out in *Schedule 3*.

Support Charges: the sums payable for the Support Services as set out in *Schedule 4*

Support Services: services provided to the Customer when agreed under a Support Order Form via QGate Technical Services team to provide post implementation system and product support as well as administrative assistance and guidance as more fully described in *Schedule 4*.

Support Services Order Form: means the order form for Support Services as set out in Schedule 4, Annex A.

Support Services Hours: an agreed number of hours purchased on a monthly basis to be used for Support Services activities.

VAT: value added tax chargeable under the Value Added Tax Act 1994.

Works: the delivery of the Available Services under a Statement of Work.

Clause, Schedule and paragraph headings shall not affect the following Interpretations of this agreement:

1.1   A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.2   The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.

1.3   A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.4   Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.5   Unless the context otherwise requires, a reference to one gender shall include a reference to the other gender.

1.6   This agreement shall be binding on, and ensure to the benefit of, the parties to this agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.

1.7   A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to under that statute or statutory provision.

1.8   A reference to writing or written includes email.

1.9   Any obligation on a party not to do something includes an obligation not to allow that thing to be done

1.10   A reference to this agreement or to any other agreement or document referred to in this agreement is a reference of this agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this agreement) from time to time.

1.11 References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.

1.12 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. COMMENCEMENT AND DURATION

2.1 This agreement shall commence on the date when it has been signed by all the parties and shall continue unless terminated earlier in accordance with Clause 12., or until either party gives to the other party written notice to terminate pursuant to Clause 12.1.

2.2 If there are no uncompleted Statements of Work or Support Order Forms for Support Services as at the date notice to terminate is served under Clause 12.1, such notice shall terminate this agreement with immediate effect.

2.3 The parties shall not enter into any further Statements of Work or Support Order Forms for Support Services after the date on which notice to terminate is served under Clause 12.1.

2.4 The Customer may procure any of the Available Services by agreeing to a Statement of Work or Support Services with QGate pursuant to Clauses 3 or 4.

3. PROJECT SERVICES

3.1 A Statement of Work shall be drafted when the Customer requests QGate to provide any or all the Available Services other than Support Services.

3.2 The Statement of Work may also include details and costs of required Software.

3.3 The Customer will provide QGate with as much information as QGate reasonably requests to prepare a draft Statement of Work. If QGate declines to provide the Available Services, it shall inform the Customer as soon as reasonably practicable. Both parties shall sign the draft Statement of Work when it is agreed.

3.4 Unless otherwise agreed, the Statement of Work Charges shall be calculated in accordance with the Reference Charges.

3.5 In relation to each Statement of Work, QGate shall:

3.6 use reasonable endeavours to manage and complete the Works, and deliver the Deliverables to the Customer, in accordance with Statement of Work in all material respects;

3.7 use reasonable endeavours to meet any performance dates specified in a Statement of Work appoint a manager in respect of the Works to be performed under each Statement of Work, such person as identified in the Statement of Work. That person shall have authority to contractually bind QGate on all matters relating to the relevant Works

3.8 QGate shall use all reasonable endeavours to ensure that the same person acts as QGate's manager throughout the term of the relevant Statement of Work but may replace that person from time to time where reasonably necessary in the interests of QGate's business.

3.9 In relation to each Statement of Work, the Customer shall:

3.9.1 co-operate with QGate in all matters relating to the Works;

3.9.2 appoint a manager in respect of the Works to be performed, such person as identified in the Statement of Work;

3.9.3 provide, for QGate, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Customer's premises, office accommodation, data and other facilities as reasonably required by QGate including any such access as is specified in a Statement of Work;

3.9.4 provide to QGate in a timely manner all documents, information, items and materials in any form (whether owned by the Customer or a third party) required under a Statement of Work or otherwise reasonably required by QGate in connection with the Works and ensure that they are accurate and complete in all material respects;

3.9.5   ensure that all the Customer's Equipment is in good working order and suitable for the purposes for which it is used in relation to the Works;

3.9.6   obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable QGate to provide the Works, including in relation to the installation of QGate's Equipment, the use of all Customer Materials and the use of the Customer's Equipment, in all cases before the date on which the Works are to start;

3.9.7   allow an extension of time to QGate to perform its obligations under each Statement of Works if it is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees without prejudice to any other right or remedy it may have;

3.9.8   grant to QGate the right to make public announcements for the purposes of marketing, concerning the provision by QGate to the Customer of the Available Services and thereby the right to use for that purpose the name and any trade mark of the Customer to that end with the express written consent being obtained by the Customer in advance of any announcement.

3.10   Acceptance criteria for all Works and Deliverables shall be set out within the Statement of Work and the Customer shall accept Deliverables on meeting those criteria. Whether written notice of acceptance is provided or not, use of a Deliverable within the Customer's live/production business operations shall be determined as acceptance.

3.11   A period of 30 days following the date of delivery of each Deliverable shall be allowed during which time the Customer should notify QGate in writing of any fault and/or defect discovered and QGate shall fix that fault and/or defect using reasonable efforts. In the event that QGate cannot fix the fault and/or defect within 30 days of the defect notification to QGate or is otherwise unable to effect a suitable workaround and, if the fault and/or defect is of a material nature the Customer shall acting reasonably be entitled to reject the Deliverables and terminate the relevant Statement of Work or the affected part of it and receive a full refund of all sums paid in respect of the rejected Deliverables and any other Deliverables that are unable to be used without the rejected Deliverables.

3.12   Defects or faults notified to QGate after 30 days from delivery shall be addressed via Support Services.

3.13   In accordance with Clause 5, QGate shall invoice the Customer for the Charges relevant to each Statement of Work at the intervals specified, or on the achievement of the Milestones indicated, in the Statement of Work. If no intervals or Milestones are so specified, QGate shall invoice the Customer at the end of each month for Works performed during that month.

3.14   Each Statement of Work shall be part of this agreement and shall not form a separate contract to it.

4. SUPPORT SERVICES

4.1   Support Services provides the Customer with access to the QGate Technical Services team for post implementation support and assistance. The types of support and assistance available are detailed in Schedule 4.

4.2   The Customer will request Support Services by contacting QGate Technical Services via the published contact number, email address or web portal.

4.3   QGate will be log Support Service requests as Cases for tracking and monitoring.

4.4   Support Services Hours will be used for ALL Cases irrespective of type of request including any technical issues.

4.4.1   For the avoidance of doubt, this means that if QGate's resources are involved in assisting with problem determination and/or escalation of a Case on behalf of the Customer with another vendor, all time associated with the Case spent by QGate's Technical Services personnel will be consumed as Support Services Hours.

4.5   A minimum of 10 minutes will be logged for any activity related to a Case, including managing phone calls and emails.

4.6   To be able to use the Support Services the Customer will need to have ordered and paid for the Support Services Hours

4.7   If at the end of the month there are unused Support Services Hours, a maximum of 50% of the ordered number of Support Services Hours for that month will be carried over to the following month.

4.8   If the Customer uses more than the agreed number of Support Services Hours in a month, including any hours carried forward from the preceding month, the Customer will be automatically charged for these additional hours at the next billing cycle at the Top Up rate as detailed in the Support Services Order Form.

4.9   The Customer may plan and schedule the use of Support Services Hours with QGate Technical Services team for the coming month.

4.10   The Customer will not be able bring forward Support Services Hours from a future month.

4.11   The number of monthly Support Services Hours can be adjusted (increased or decreased) by Customer request up to 4 times in any 12 month period on thirty days' notice in writing.

4.12   Support Services will be billed for each calendar month starting on the 1st of the month and will be due:

   4.12.1   for new systems, as of the month following the promotion of the first solution Deliverable to a production instance/live environment; or

   4.12.2   for pre-existing systems, the month following the date of signing of the Support Service Order Form.

4.13   The Customer can cancel the order for Support Services with 30 days written notice.

4.14   To enable QGate to fully carry out the support activities including escalation to a 3rd party vendor, it will be necessary for the Customer to have current support and maintenance in place for all products within their system. This will more commonly apply to, but not limited to, 3rd party licenced products.

4.15   Depending on the vendor and how any 3rd party products have been purchased, and/or the licencing type, there may be separate charges for software maintenance levied by the 3rd party vendor covering the vendor support, provision of fixes, new releases and new versions. Where QGate has supplied the 3rd party Products these charges will be detailed in the Support Services Order Form.

4.16   In relation to the Support Services, QGate shall:

   4.16.1   provide the services as defined in Schedule 4 with due diligence care and skill subject to having received payment from the Customer for the Support Services;

   4.16.2   act in such a way so as not to cause business interruption or impact to the application under support;

   4.16.3   manage logged issues per the QGate Support Procedures detailed at https://www.qgate.co.uk/terms/;

   4.16.4   return or destroy, if requested by the Customer, any media traces/error logs or other diagnostic information provided by the Customer to QGate.

4.17   In relation to each Support Services, the Customer shall:

   4.17.1   provide appropriately licenced access to the Software which may require a licence to be purchased specifically for this purpose;

   4.17.2   raise Support Services requests with QGate Technical Services desk only for the Software covered by each Agreement;

   4.17.3   maintain a current back-up copy of the Software and all data managed within the Software to minimise data loss during the provision of the Service. This includes hosted, SaaS or other cloud base software;

   4.17.4   maintain an environment that conforms to the current compatibility requirements or similar pre-requisites as published by the Software vendor(s);

   4.17.5   where applicable, maintain at least one copy of the Software and/or supporting non production environment, so as to facilitate a separate test/development facility such that any changes can be tested prior to being applied to the live production environment;

   4.17.6   implement QGate's recommendations in respect of solutions to issues reported by the Customer;

   4.17.7   provide copies of appropriate media traces/error logs or other diagnostic information if requested by QGate;

   4.17.8   provide QGate, if feasible, with remote on-line access to the system;

   4.17.9   take all reasonable steps to minimise the effects of any errors in the Software including the avoidance of the repetition of the circumstances that revealed such errors.

4.18 Subject to the termination rights set forth herein, the Commencement Date, Billing terms and renewal terms of the Support Services attached are set out in the Support Services Order Form.

4.19 In consideration of QGate providing the Support Services, the Customer shall pay the Support Charges as stated in the Support Services Order Form. Such Charges will be invoiced to the Customer in advance of the Support Services commencing and monthly in advance thereafter. The Support Charges must be paid in full before QGate will provide the Service.

4.20 In the event that the Customer acquires additional licences or additional Software subsequent to the Commencement Date then the terms and conditions of this Agreement shall cover all such additions provided that:

4.20.1 in the event of increases or decreases in Software or required support and assistance an updated Support Services Order Form will be raised to include the revised Support Services and/or 3rd Party costs; and

4.20.2 if any of the Software is perpetual and/or requires an annual payment a new Support Services Order Form will be raised to confirm costs for the following period.

4.21 Some vendors levy a re-instatement fee if their support and maintenance fees are not paid in time or support has lapsed and have notice periods for terminating such services failing which the support and maintenance services will renew for another contract term. Where QGate is responsible for managing the vendor relationship for the Customer, any such fees will be made known to the Customer in advance together with the necessary timeframes for giving notice of termination and will be re-charged to the Customer as incurred by QGate.

5. CHARGES AND PAYMENT

5.1 In consideration of the provision of the Project Services by QGate, the Customer shall pay the Charges either directly or if so specified in a Statement of Work indirectly through a third party.

5.2 The Charges exclude the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals who QGate engages in connection with the Works.

5.3 The Charges will be invoiced as per the billing schedule detailed in the Statement of Work, together with all expenses payable by the Customer monthly in arrears, following submission of an appropriate invoice:

5.4 QGate may increase the Reference Charges and any other services (non licence) related Charges not calculated in accordance with the Reference Charges on an annual basis with effect from each anniversary of the date of this agreement in line with the percentage increase in the Retail Prices Index in the preceding 12-month period.

5.5 Any increase in the Reference Charges shall affect:

5.5.1 the Statement of Work Charges (to the extent that they are calculated in accordance with the Reference Charges) in Statements of Work in force at the date the increase takes effect; and

5.5.2 the calculation of the Charges for Statements of Work and Support Services entered into after the date the increase takes effect.

5.6 QGate may charge a cancellation fee on any Charges, agreed and set out on a Statement of Work calculated as either:

5.6.1 50% of the agreed Charges if cancellation is within 10 working days of the agreed date of service delivery, or

5.6.2 100% of the agreed Charges if cancellation is within 3 working days of the agreed date of service delivery.

5.7 The Customer shall pay each invoice submitted to it by QGate within 30 days of the date of invoice into a bank nominated in writing by QGate from time to time.

5.8 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay QGate any sum due under this agreement on the due date:

5.8.1 the Customer shall pay interest, accrued daily until actual payment, on the overdue amount at the rate of 2% per annum above Lloyds Bank's base rate from time to time; and

5.8.2 QGate may suspend or abort part or all of the Works until payment has been made in full including pro rata charges for Works undertaken whether or not completed and any interest accrued under clause 5.8.1.

5.9 All sums payable to QGate under this agreement:

5.9.1 are exclusive of VAT, and the Customer shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and

5.9.2 shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law) unless a bona fida dispute has been raised.

6. INTELLECTUAL PROPERTY RIGHTS

6.1 In relation to the Deliverable:

6.1.1 QGate, including any sub-contractors, and its licensors shall retain ownership of all pre-existing IPR in the Deliverables, and QGate Tools, but excluding the Customer Materials.

6.1.2 QGate shall also retain any IPR relating to designs, processes, databases, coding inventions or any similar component whether created or evolved as part of the Deliverables.

6.1.3 QGate grants the Customer, worldwide, non-exclusive, royalty-free perpetual rights to use, copy and modify the Deliverables (excluding the Customer Materials) for the purpose of its internal use only.

6.1.4 The Customer may, only with the written consent of QGate, sub-licence the rights granted in Clause 6.1.3 to its Affiliates and/or customers.

6.2 In relation to the Software

6.2.1 The customer shall procure and maintain, either through QGate, vendor or third party all required Software Licences.

6.3 QGate warrants:

6.3.1 that the receipt, or use of the Works and the Deliverables by the Customer and its permitted sub-licensees shall not infringe the rights, including any Intellectual Property Rights, of any third party;

6.3.2 that subject to Clause 11.3, keep the Customer indemnified in full against all costs, expenses, damages and losses, including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by the Customer as a result of or in connection with any claim brought against the Customer for actual or alleged infringement of a third party's Intellectual Property Rights, to the extent that the infringement or alleged infringement results from copying, arising out of, or in connection with, the receipt, or use of the Works and the Deliverables;

6.3.3 The Customer shall, however, have no claim under the indemnity at Clause 6.3.2 to the extent the infringement arises solely from:

6.3.3.1. the use of Customer Materials in the development of, or the inclusion of the Customer Materials in the Works or any Deliverable;

6.3.3.2. any modification of the Works or any Deliverable, other than by or on behalf of QGate.

6.4 The Customer warrants:

6.4.1 that the receipt and use in the performance of this agreement by QGate, its agents, subcontractors or consultants of the Customer Materials shall not infringe the rights, including any Intellectual Property Rights, of any third party;

6.4.2 it shall keep QGate indemnified in full against any direct costs, expenses, damages including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by QGate as a result of or in connection with any claim brought against QGate, its agents, subcontractors or consultants for actual or alleged infringement of a third party's Intellectual Property Right arising out of, or in connection with, the receipt or use in the performance of this agreement of the Customer Materials. Such liability to be limited to the value of the contract;

6.5 If either party (**Indemnifying Party**) is required to indemnify the other party (**Indemnified Party**) under this Clause 6, the Indemnified Party shall:

6.5.1   notify the Indemnifying Party in writing of any claim against it in respect of which it wishes to rely on the indemnity at Clause 6.3 or Clause 6.8 (as applicable) (**IPRs Claim**);

6.5.2   allow the Indemnifying Party, at its own cost, to conduct all negotiations and proceedings and to settle the IPRs Claim, always provided that the Indemnifying Party shall obtain the Indemnified Party's prior approval of any settlement terms, such approval not to be unreasonably withheld;

6.5.3   provide the Indemnifying Party with such reasonable assistance regarding the IPRs Claim as is required by the Indemnifying Party, subject to reimbursement by the Indemnifying Party of the Indemnified Party's costs so incurred; and

6.5.4   not, without prior consultation with the Indemnifying Party, make any admission relating to the IPRs Claim or attempt to settle it, provided that the Indemnifying Party considers and defends any IPRs Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Indemnified Party into disrepute.

7.   COMPLIANCE WITH LAWS AND POLICIES

7.1   In performing their obligations under this agreement, QGate and the Customer shall comply with:

7.1.1   the Applicable Laws; and

7.1.2   QGate Policies and Procedures, provided that QGate shall give the Customer not less than 30 days notice of any change to such policies.

7.2   Changes to the Works required as a result of changes to the Applicable Laws or QGate Policies and Procedures shall be agreed via a separate Statement of Work.

8.   DATA PROTECTION AND DATA PROCESSING

8.1   For the purposes of this Agreement, both parties may receive Personal Data. Where the parties receive Personal Data as Data Controllers each party agrees to comply with the current Data Protection Legislation.

8.2   Throughout the commercial relationship of the parties, each party will be processing the Personal Data of the other's employees in order to facilitate contact and co-operation between the parties.

8.3   Notwithstanding the Personal Data described in Clause 8.2, the Customer will, acting as Data Controller be passing Personal Data to QGate as Data Processor pursuant to this Agreement.

8.4   Where QGate receives Personal Data as a Data Processor, QGate shall:

8.4.1   act solely on the instructions of the Customer in relation to the processing of that Personal Data. In the event that a legal requirement prevents QGate from complying with such instructions QGate shall, unless such legal requirement prohibits it from doing so, inform the Customer of the relevant legal requirement before carrying out the relevant processing activities provided that to the maximum extent permitted by mandatory law, QGate shall have no liability howsoever arising (whether in contract, tort (including negligence) or otherwise) for any losses, costs, expenses or liabilities arising from or in connection with any processing in accordance with the Customer's processing instructions following the Customer's receipt of that information;

8.4.2   at all times, ensure that the necessary technical and organisational measures are in place to prevent unauthorised and unlawful processing or disclosure of such Personal Data and such measures shall include taking reasonable steps to ensure the reliability of any of its staff who may have access to Personal Data and ensuring that such staff are subject to appropriate confidentiality undertakings.   QGate shall, save where prohibited by law and as soon as reasonably practical, notify the other party of any legal obligation which requires the QGate to disclose the Personal Data to a third party;

8.4.3   not transfer the Personal Data outside of the European Economic Area (as such term is commonly understood) or to any third party without the Customer's written consent;

8.4.4   send to the other party any communications received from individuals in relation to their Personal Data as soon as reasonably practicable. QGate shall provide reasonable co-operation to the other party in relation to any individuals exercising their rights under the Data Protection Legislation;

8.4.5   give the Customer reasonable assistance in relation to its compliance with Data Protection Legislation;

8.4.6   take reasonable steps to ensure the confidentiality, integrity, availability and resilience of processing systems and services associated with the processing of Personal Data;

8.4.7   co-operate with and provide such information and access to any facilities, premises or equipment from or on which Personal Data is, has been, or is to be processed pursuant to this Agreement (including any such facilities, premises or equipment used by staff and / or sub-contractors) as the other party may reasonably require enabling it to monitor compliance by QGate with the obligations in this Agreement;

8.4.8   notify the Customer without undue delay and assist the Customer with any investigation into and remediation of an actual or suspected Personal Data Breach.   QGate shall also provide the Customer with reasonable assistance with any notifications made to relevant authorities and / or individuals in relation to a Personal Data Breach;

8.4.9   not subcontract any of its obligations under this Agreement regarding the processing of Personal Data to a third party (a "Sub-Processor") without the prior written consent of the Customer. QGate shall be liable for the acts and omissions of the Sub-Processor as if they were the acts or omissions of the QGate itself and QGate shall ensure that there is a written contract executed between QGate and the Sub-Processor that contains equivalent protections for the Personal Data as are set out in this Agreement;

8.4.10   immediately cease processing the Personal Data and immediately supply any Personal Data to the other party or delete the Personal Data in accordance with the other party's instructions; and

8.4.11   submit to audits and inspections carried out directly upon it by a supervisory authority or the Customer (no more often than once every twelve (12) months or as the Customer reasonably believes necessary, based on evidence and providing such evidence in notification to the Processor), and co-operate in any audits and inspections carried out upon the Customer; and

8.4.12   inform the Customer immediately of any requests made of it that would involve infringing Data Protection Legislation.

8.5   Where QGate receives Personal Data as a Data Processor the Customer warrants, represents and undertakes, that:

8.5.1   all data sourced by the Customer for use in connection with the Services, prior to such data being provided to or accessed by QGate for the performance of the Services under this Agreement, shall comply in all respects, including in terms of its collection, storage and processing (which shall include the Customer providing all of the required fair processing information to, and obtaining all necessary consents from, Data Subjects), with Data Protection Legislation; and

8.5.2   all instructions given by it to QGate in respect of Personal Data shall at all times be in accordance with Data Protection Laws.

8.6   The Processor shall maintain and keep up to date records detailing the location of all Customer data (including Personal Data) together with details of any third parties with whom QGate has shared any Customer data.

8.7   Nothing in this agreement relieves QGate of its own direct obligations under Data Protection Legislation and QGate shall comply with of the following additional obligations:

8.7.1   To co-operate with supervisory authorities as reasonably required;

8.7.2   To keep records of its own processing activities;

8.7.3   To employ a Data Protection Officer (if applicable);

8.7.4   The schedule of processing activities is detailed in Schedule 1.

8.8   QGate shall (and shall ensure that all persons acting on its behalf and all QGate Personnel shall), promptly following the Customer's written request, either securely delete or securely return all Personal Data to the Customer in such form as the Customer reasonably requests.

8.9   QGate shall (and shall ensure that all persons acting on its behalf and all QGate Personnel shall), following written confirmation by the Customer that it has received a functional copy of all Personal Data, securely delete all the Personal Data promptly after the earlier of:

    8.9.1   the end of the provision of the relevant Services or Support related to processing of such Personal Data;

        or

    8.9.2   once processing by the QGate of any Personal Data is no longer required for the purpose of QGate's performance of its relevant obligations under this Agreement, (unless storage of any data is required by Applicable Law and, if so, QGate shall inform the Customer of any such requirement).

9. NON-SOLICITATION

9.1   Neither party shall without the prior written consent of the other party, solicit or entice away from the other party, any person who is, or has been engaged as an employee, consultant or subcontractor by the other party in the provision of the Works.

9.2   This non-solicitation clause will be effective from the date on which any Works commences, up to the date 12 months after the completion of the Works.

10. CONFIDENTIALITY

10.1   Each party undertakes that it shall not at any time during this agreement, and for a period of five years after termination of this agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by Clause 10.2.

10.2   Each party may disclose the other party's confidential information to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement and as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

10.3   No party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

10.4   QGate acknowledges if the Customer is a Public Authority it will have the need to comply with Government requests for information such as but not limited to the Government Transparency Code. QGate will not restrict any such information under this clause.

11. LIMITATION OF LIABILITY

11.1   Nothing in this agreement shall limit or exclude QGate's liability for:

    11.1.1 death or personal injury caused by its negligence;

    11.1.2 fraud or fraudulent misrepresentation;

    11.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

11.2   Subject to Clause 12.1, neither party shall be liable to the other party, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement for:

    11.2.1 loss of profits;

    11.2.2 loss of sales or business;

    11.2.3 loss of agreements or contracts;

    11.2.4 loss of anticipated savings;

    11.2.5 loss of or damage to goodwill;

    11.2.6 loss of use or corruption of software, data or information; and

    11.2.7 any indirect or consequential loss.

11.3 Subject to Clause 11.1, each party's total liability to the other party, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement shall be limited to the lesser of £1,000,000 and seventy five per cent (75%) of the average annual charges (calculated by reference to the charges in successive 12-month periods from the date of this agreement) paid by the Customer under this agreement.

11.4 The terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this agreement.

12. TERMINATION

12.1 Either party may terminate this agreement on written notice to the other. Such notice shall be served no earlier than the first anniversary of the commencement of this agreement and shall expire on the completion or end of the terms of all Statements of Work and Support Services entered into before the date on which it is served.

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

12.2.1 the other party commits a material breach of any term of this agreement and such breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;

12.2.2 the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;

12.2.3 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

12.2.4 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

12.2.5 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

12.2.6 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company);

12.2.7 the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;

12.2.8 a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the other party;

12.2.9 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;

12.2.10 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Clause 12.1.3 to Clause 12.1.9 (inclusive); or

12.2.11 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

12.3 For the purposes of Clause 12.1.1 **material breach** means a breach (including an anticipatory breach) that is so serious in the widest sense of having a significant effect on the benefit which the terminating party would otherwise derive from a substantial proportion of this agreement but for the breach.

12.4 Without affecting any other right or remedy available to it, QGate may terminate this agreement with immediate effect by giving written notice to the Customer if:

12.4.1 the Customer fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 10 days after being notified in writing to make such payment; or

12.4.2 there is a change of control of the Customer.

12.5 On termination or expiry of this agreement:

12.5.1 all existing Statements of Work and Support Services shall terminate automatically except in the case of termination for convenience under clause 12.1 when the Statements of Work and Support Services shall continue for the full term of those Services;

12.5.2 the Customer shall immediately pay to QGate all QGate's outstanding unpaid invoices and interest and, in respect of the Works supplied but for which no invoice has been submitted, QGate may submit an invoice, which shall be payable immediately on receipt;

12.5.3 the Customer shall, within 30 days, return all QGate's Equipment. If the Customer fails to do so, then QGate may enter the Customer's premises and take possession of QGate's Equipment. Until QGate's Equipment has been returned or repossessed, the Customer shall be solely responsible for its safe keeping;

12.5.4 QGate shall on request return any of the Customer Materials still in its possession; and

12.5.5 the following clauses shall continue in force: Clause 1 (Interpretation), Clause 9 (Non-solicitation), Clause 6 (Intellectual property rights), Clause 10 (Confidentiality), Clause 11 (Limitation of liability), Clause 12.5 (Consequences of termination), Clause 15 (Waiver), Clause 17 (Severance), Clause 23 (Dispute resolution), Clause 24 (Governing law) and Clause 25 (Jurisdiction).

12.6 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

13. FORCE MAJEURE

13.1 A party shall not be liable for any failure of or delay in the performance of this agreement for the period that such failure or delay is:

13.2 beyond the reasonable control of a party;

13.3 materially affects the performance of any of its obligations under this agreement; and

13.4 could not reasonably have been foreseen or provided against.

14. VARIATION

14.1 Subject to Clause 3.4, no variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

15. WAIVER

15.1 A waiver of any right or remedy under this agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.

15.2 A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

16. RIGHTS AND REMEDIES

16.1 The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

17. SEVERANCE

17.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

17.2 If one party gives notice to the other of the possibility that any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

18. ENTIRE AGREEMENT

18.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

18.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent (but not negligent) misrepresentation based on any statement in this agreement

19. NO PARTNERSHIP OR AGENCY

19.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

19.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

20. THIRD PARTY RIGHTS

20.1 No one other than a party to this agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.

21. NOTICES

21.1 Any notice given to a party under or in connection with this agreement shall be in writing and shall be:

21.1.1 delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

21.1.2 sent by email to the addresses specified in the latest dated Statement of Works.

21.2 Any notice shall be deemed to have been received if delivered by hand, on signature of a delivery receipt:

21.2.1 if sent by pre-paid first-class post or other next Business Day delivery services, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service;

21.2.2 and if sent by email, at 9.00 am on the next Business Day after transmission.

21.3 This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

22. COUNTERPARTS

22.1 This agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

22.2 Transmission of an executed counterpart of this agreement (but for the avoidance of doubt not just a signature page) by (a) fax or (b) email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this agreement. If either method of delivery is adopted, without prejudice to the validity of the agreement thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.

22.3 No counterpart shall be effective until each party has executed and delivered at least one counterpart.

23. DISPUTE RESOLUTION

23.1 If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it (Dispute) then except as expressly provided in this agreement, the parties shall follow the procedure set out in this clause:

23.1.1 either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, the signatory to this agreement for the Customer and the signatory to this agreement for QGate shall attempt in good faith to resolve the Dispute;

23.1.2 if the signatory to this agreement of the Customer and/or the signatory of QGate are for any reason unavailable or unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to the CEO of the Customer and CEO of QGate who shall attempt in good faith to resolve it; and

23.1.3 if the CEO of the Customer and MD of QGate are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate mediation, a party must serve notice in writing (**ADR notice**) to the other party to the Dispute, requesting mediation. A copy of the ADR notice should be sent to CEDR. The mediation will start not later than 30 days after the date of the ADR notice.

23.2 Neither party may commence any court proceedings under this Clause 24 in relation to the whole or part of the Dispute until 45 days after service of the ADR notice, provided that the right to issue proceedings is not prejudiced by a delay.

23.3 If the Dispute is not resolved within 45 days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 45 days, or the mediation terminates before the expiration of the said period of 45 days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause this Clause 24.

24. GOVERNING LAW

24.1 This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

25. JURISDICTION

25.1 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

26. SIGNATURE

In witness whereof the parties have executed this Agreement comprising the conditions and the Schedules attached hereto.

Signed for and on behalf of QGate:	QGate Software Ltd
Signature	
Print name	
Job Title	
Date	
Signed for and on behalf of Customer:	QGate Software
Signature	
Print name	
Job Title	
Date	

Schedule 1

Schedule of Data Processing Activities

Data controller (Customer)	QGate Software
Account reference	PRO00002
Personal data under the control of the Customer which will or may be processed as a result of the undertaking by QGate *Customer to enter details here ->*	Details:
Please confirm if any of the data falls into any of the follow Sensitive/Special Categories listed below. If Yes please detail which applies here -> Personal data revealing: • racial or ethnic origin, political opinions, religious or philosophical beliefs • trade-union membership • genetic data, biometric data processed solely to identify a human being • health-related data • data concerning a person's sex life or sexual orientation	Yes/No ☐ Details of Sensitive/Special Category Data:
Data processor (QGate)	QGate Software Limited
Services provided	Support Services, Applicable Works
Dates of delivery of the Services (subject to renewal based on the terms of the agreement)	Throughout the term of this agreement
Data processing activities required/anticipated to be undertaken by QGate on the Personal Data to deliver the Services (Processing Activities)	Development and testing of the Software as detailed in a Statement of Work
For what purpose are the Processing Activities undertaken?	The Processing Activities are required to enable the delivery by QGate of the Services; it would not be possible for the Customer to enjoy the benefit of the Services if the Processed Personal Data was not (or could not be) processed in this manner
In which countries are the Processing Activities undertaken by QGate?	Inside the European Economic Area (EEA), primarily in the United Kingdom
In the delivery of the Services, any of the following third parties may undertake any of the Processing Activities?	• Microsoft • Infor

Schedule 2

Customer Reference Charges and Available Services

Reference Charges for project based services

The following services may be included, in any proportion, within a Statement of Work (SOW) and/or Change Order, charges are based on the standard rates below:

Available Services	Standard Hourly Rate
Development	£120
Installation	£120
Problem Determination	£120
Consultancy	£125
Off-Site Training and Materials Development	£120
On-Site Training	£140
Project Management	£125
Support Services – Agreed Hours	£110
Support Services – Top Up Hours	£125

Hours worked between 18.00 on a Friday to 09.00 on a Monday or similar prior or after a public holiday are charged at double the above rates

Technical Services Hours

Monday to Friday 09:00 to 17:30, excluding Public Holidays

Additional cover available by special arrangement

Travel, Accommodation and Subsistence

Reasonable travel, accommodation and subsistence expenses shall be recharged as agreed prior to any charges being submitted.

Mileage will be charged at prevailing HMRC rate

Public transport will be used where possible and booked in advance using standard class tickets to keep related charges to the minimum.

Accommodation costs will not exceed:

- General Location £95 per night
- Central London £135 per night
- International location £135 per night

If the Customer has its own travel department or special local arrangements for accommodation etc. it can arrange for the required travel and/or accommodation for QGate personnel and arrange direct payment.

Where on site attendance by QGate staff is required and travel is greater than 150 miles from central London or the Fareham office QGate retains the right to charge travel time. Any such charge will require prior authorisation from the Customer.

Schedule 3

Templates Examples for Statement of Works and Change Orders

QGate Software Ltd
Template: Statement of Work
Insert: Project Name, SOW reference Number

Prepared for:
QGate Software

Customer/MSA Number
PRO00002

Prepared by:
Rowland Dexter

Date:
<<SOW date>>

SOW Status:
<<Draft/Accepted>>

This Statement of Work (SOW), dated as of the date above, is entered into and made a part of the Master Services Agreement (the "Agreement) <<MSS Agreement Number>> between QGate Software Ltd (QGate) and <<Customer>> (Customer). Upon mutual execution, QGate Software Ltd shall perform the Works described in this SOW.

1. General Conditions
    1.1.   Responsibilities
    1.2.   Management
    1.3.   Approach
    1.4.   Timeline
    1.5.   Acceptance process
    1.6.   Change Management process
    1.7.   SOW Completion
    1.8.   Costs, Payment Schedule including Expenses

2. The Works
    2.1.   Assumptions
    2.2.   Objectives
    2.3.   Areas within Scope
    2.4.   Areas not within Scope
    2.5.   Deliverables
    2.6.   Phases

3. Statement Of Works Charges

ACCEPTANCE

Signed for and on behalf of Customer:	
Signature:	

Print name:	
Job Title:	
Date:	

Template: Change Order

QGate Software Ltd
Template: Change Order
Insert: Project Name, Project reference and Change Number

Prepared for:
QGate Software

Customer/MSA Number
PRO00002

Statement of Work Number
PROXXXX

Prepared by:
Rowland Dexter

Date:
<<SOW date>>

SOW Status:
<<Draft/Accepted>>

This Change Order (CO) dated as of the date above, is entered into and made a part of the Statement of Works between QGate Software Ltd (QGate) and <<Customer>> (Customer) dated <<SOW sign date>>. Upon mutual execution, QGate Software Ltd shall perform the Works described in the SOW with the changes detailed herein.

1. Impact
    1.1. To Timeline
    1.2. To Deliverables
    1.3. To Costs, Payment Schedule and Expenses.

ACCEPTANCE

Signed for and on behalf of Customer:	QGate Software
Signature:	
Print name:	
Job Title:	

Date:	

Schedule 4 - Support Services

Support Services are obtained by the Customer signing a Support Services Order Form for Support Services as set out at Annex A to this Schedule 4.

Definitions of available Support Services

Overview

The intent of the Support Services is to enable the Customer to call on QGate for post implementation assistance. QGate will raise a Case and the Customer will receive an automated acknowledgement of this. Such assistance can be as follows:

Technical Support Service

Commonly known as break/fix. I.e. the Customer has identified an error, a failing function or similar product related issue.

QGate will raise a Case the customer will receive an automated acknowledgement of this. QGate Technical Services team will liaise with the Customer, and if appropriate 3rd Parties to identify a resolution where possible to the issue.

System Administration Service

This service offers the Customer the ability to request assistance to carry out system administration. This may include adding, removing users etc. It will require the Customer to provide appropriate authorisation and administrative level access to the system to carry out such tasks.

Upgrade Service

From time to time the System will have one or more components that require upgrading. The Customer can utilise Support Services to assist in the testing and addressing issues arising from a Software update.

Should the upgrade be identified as a significant task in proportion to the number of Support Service Hours ordered, the Customer will be advised as such. The upgrade will then be managed as Project Services under a Statement of Work.

Minor Customisation Service

The Customer may request minor customisation or configuration changes. i.e. a minor change to user interface, creation of a Dashboard or View.

Notes:

1. If during the assistance the Technical Service team identify the request as more significant, it will highlight this to the Customer with the recommendation as how best to proceed, this might include passing to the Professional Services Team, or being raised as a Project.
2. Where the request is accepted by Technical Services, QGate reserve the right to schedule that task for action at a later time as agreed with the Customer.

Training

Where reasonable QGate will provide training or refresher sessions. These will be intended to cover general functions, where the Customer requires the knowledge to for example, create their own Dashboards. Any session would be expected to last no more than 2 hours. Training requirements of a greater time requirement may be managed under the Support Services terms, but with an agreed schedule. If the requirement is of an even greater time/resource requirement it will be delivered as Project Services under a Statement of Work.

Customer Support Contact(s)

In all situations, QGate requires the Customer to have nominated persons of contact for all Support Services requests. This is to the benefit of the Customer and QGate to ensure each Case is managed as effectively as possible.

Excluded Services

Direct end user support is not included. It is required that the Customer has appropriate internal end user support in place, with users receiving appropriate training either from QGate or via internal training, to reduce issues due to lack of system knowledge.

Annex A - Support Services Order Form

Company Name	MSA Number	Term Dates
QGate Software	PRO00002	Commencement Date: dd MMM YYYY Initial Billing Date: dd MMM YYYY

AGREED MONTHLY SUPPORT SERVICES HOURS

Type	Quantity	Rate per hour	Total per month
Pre Paid	*TBC*	£110	
Top Up	Automatic as required	£125	Billed as used

3rd PARTY SUPPORT AND MAINTENANCE

Software	Qty	Payment Period	Rate	Cost
		Monthly / Annual		

SUPPORT CONTACT(S)

Contact Name	Email	Direct line

ACCEPTANCE

Signed for and on behalf of Customer:	QGate Software
Signature:	
Print name:	
Job Title:	
Date:	