



## 1. ARTESIAN TERMS OF SERVICE

1. **Welcome.** Thank you for signing up to Artesian. We will provide you with access to the Artesian services specified on the Order Form.

These Terms of Service (together with the documents referred to herein) tell you the terms and conditions on which you may make use of the Services. Please read these Terms of Service carefully before you sign up to our Services.

2. **Agreement.** By signing up to our Service you agree to these Terms of Service on behalf of the company, business or organisation you represent.

3. **Definitions.** In Section 7 below, there is a list of definitions of terms used in these Terms of Service.

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## 2. YOUR USE OF OUR SERVICES

1. **Your use of Artesian.** By purchasing access to the Services we give you permission to use the Services in accordance with this Agreement.

2. **Licence to use the Services and our App.** We grant you a non-exclusive, non-transferable, personal and non-sublicenseable right to permit your Users to use the Services, solely for your own internal business purposes. If we release an app providing access to our Services (our “**App**”), we grant Users a non-exclusive, personal, non-transferable licence to use the App (including any updates we make to the App) on the User’s mobile device for the sole purpose of accessing and using the Services in accordance with this Agreement and any End User Licence Agreement specifically applicable to the App.

3. **Restrictions on your use of the Services and our App.** You must prevent any unauthorised access to, or use of, the Services and, in the event of any such unauthorised access or use, promptly notify us. You may not access the Services or use our App if you are a direct competitor of Artesian, except with our prior written consent. You may not access the Services or use our App or for the purposes of monitoring the Services availability, performance or functionality, or for any other benchmarking or competitive purposes. You must not (a)

licence, sublicense, sell, resell, transfer, assign, distribute, republish or otherwise commercially exploit or make available to any third party the Services or the App in any way; (b) modify or make derivative works based upon the Services or the App; or (c) reverse engineer or access the Services or the App in order to: (x) build a competitive product or service; (y) build a product using similar ideas, features, functions or graphics of the Services, or (z) copy any ideas, features, functions or graphics of the Services.

4. **User Licences.** Your Users cannot share User login details and User accounts and login details cannot be used by more than one individual User. However, User accounts may be reassigned from time to time to new Users who are replacing former Users who have terminated employment or otherwise changed job status or function and no longer use the Services.

5. **Prohibited Use of the Services.** You shall not use the Services to access, store, distribute or transmit any viruses, data or any material during the course of your use of the Services that (a) is unlawful or illegal or facilitates any unlawful or illegal activity; (b) infringes another person’s rights; or (c) breaches applicable privacy rights or laws. If you become aware that any

content that appears to be in breach of the above rules, please notify us immediately by email to [info@artesian.co](mailto:info@artesian.co).

**6. Usage Limits.** Your use of the Services shall be limited to the usage caps we place on the Services. The current usage caps are available at: [www.artesian.co/usagelimits](http://www.artesian.co/usagelimits).

**7. Your Responsibilities when using the Services.** You are responsible for all activity occurring under your User accounts.

**8. Users.** In relation to Users, you must ensure that: (a) the maximum number of Users that you authorise to access the Services does not exceed the number specified on the Order Form; (b) you must procure that each User keeps secure and confidential any username and password provided for the User's use of the Services and shall not disclose such user name and password to any third party including persons within the organisation, company or business; (c) you obtain any necessary licence required for your organisation to access and use any Third Party Data; (d) you comply with the terms of any licence relating to Third Party Data; and (e) neither you nor any User impersonates another User or provides false identity information to gain access to or use the Services.

**9. Sharing Usernames and Passwords.** If we discover that any User is sharing their username and password with any other person, you will pay us a sum equivalent to the Fee per User specified on the Order Form for each additional User using the Services.

**10. Reallocation of User Accounts.** You may delete User accounts and authorise other users to access and use the Services; provided the number of Users permitted to access and use the Services does not exceed the maximum number of Users specified on the Order Form.

**11. Disabling of User Accounts.** We may disable any username or password, at any time and at our sole discretion, if either a User or you have failed to comply with any of the provisions of this Agreement.

**12. User Access and User Awareness.** You are responsible for making all arrangements necessary for Users to have access to the Services. You are also responsible for ensuring that all Users are aware of the terms of this Agreement and any EULA applicable to our App, and that they comply with them. You are solely responsible for procuring and maintaining your network connections and telecommunications links from your systems to our data centres.

**13. Third Party Licences.** You agree that you have the sole responsibility to ensure that you obtain and possess all licences, authorizations and/or subscriptions (such as an NLA licence) required by the providers of the Content where and when required. We shall have no responsibility for obtaining such licences, authorizations and/or subscriptions on your behalf or any liability for your failure to do so (save if you specifically ask us to do so, in writing and we have agreed to this request and provided you with evidence of the existence of any such licences, authorisations and/or subscriptions, the provision of which may be subject to any third party fees and charges which will be passed on directly by us to you).

**14. App.** When offered by us, you and your Users may use the App to access the Service via a mobile device. To use the App you must have a mobile device that is compatible with the App. Artesian does not warrant that the App will be compatible with your mobile device.

### 3. ADDITIONAL TERMS

1. **Intellectual Property Ownership.** You acknowledge and agree that we and/or our licensors own all Intellectual Property Rights in the Services and our App. Except as expressly set out in this Agreement, we do not grant you any rights to or licences in respect of the Services or our App.

2. **Our Obligations to you.** We undertake to provide the Services with reasonable skill and care. This undertaking does not apply to the extent of any non-conformance which is caused by your use of the Services in a manner contrary to our instructions, or to any modification or alteration of the Services by anybody other than us or any person authorised by us. If the Services do not conform with this undertaking, we will use reasonable endeavours to correct any such non-conformance within a reasonable period of time, or provide you with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes your only remedy for any breach of the undertaking set out in this clause 2.

3. **Your Obligations to us.** You will: (a) provide us with: (i) all necessary co-operation in relation to this Agreement; and (ii) all necessary access to such information as may be required by us, in order to provide the Services; (b) comply with all applicable laws and regulations with respect to your activities under this Agreement; (c) carry out all of your responsibilities as set out in this Agreement in a reasonably timely and efficient manner; and (d) obtain and maintain all necessary licences, consents, and permissions necessary for you to access and use the Content and any Third Party Data and perform your obligations under this Agreement. In the event of any delays to the provision of assistance, any agreed timetable or delivery schedule shall be adjusted as is deemed reasonably necessary by us. You represent and warrant that you have not falsely identified yourself nor provided any false information to us.

4. **Mutual Warranty.** Each party warrants that it has the legal power and authority to enter into this Agreement.

5. **Availability of the Services.** We undertake to make the Services available as specified in section 3 clause 2. We do not own the Content or any Third Party Data accessible through the Services and we make no representation, warranty, undertaking, commitment or guarantee whatsoever in relation to such Content or Third Party Data. Except as expressly and

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specifically provided for in this Agreement: (a) you assume sole responsibility for (i) installation and integration of the Services with your IT systems including but not limited to your hardware and software; (b) all representations, warranties, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement; and (c) we will not be responsible for any interruptions, delays, failures or non-availability affecting the Services or the performance of the Services which are caused by third party services or errors or bugs in third party software or hardware or the Internet on which we rely to provide the Services and you acknowledge that we do not control such third party services and that such errors and bugs are inherent in the use of such software, hardware and the Internet.

6. **Confidentiality** Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's Confidential Information shall not be deemed to include information that: (i) is or becomes publicly known other than through any act or omission of the receiving party; (ii) was in the other party's lawful possession before the disclosure; (iii) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; (iv) is independently developed by the receiving party, which independent development can be shown by written evidence; or (v) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body. Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Agreement. Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement. This clause 6 shall survive termination of this Agreement, however arising.

7. **Data Protection.** To the extent that we process any Customer Personal Data and (i) the Customer Personal Data relates to individuals located in the EEA; or (ii) you are established in the EEA, you agree that we do so as a data processor only and the parties agree to comply with the provisions of the [Data Processing Addendum](#).

8. **Suggestions.** You may choose to or we may invite you to submit comments, suggestions or ideas about the Service, including without limitation about how to improve the Service or our products ("Suggestions"). By submitting any Suggestions, you agree that your disclosure is gratuitous, unsolicited and without restriction and will not place Artesian under any fiduciary or other

obligation, and that we are free to use the Suggestions without any additional compensation to you, and/or to disclose the Suggestions on a non-confidential basis or otherwise to anyone.

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## 4. FEES AND FINANCIALS

1. **Fees for use of the Services.** You will pay the Fees for access to the Services in accordance with this Agreement. Unless otherwise agreed on the Order Form, the Fees are payable on an annual basis in advance by electronic fund transfer to an account nominated by us or by credit card after receipt of an invoice from us. During the Licence Term, you must pay for all User licences ordered, whether or not such User licences are actively used or not.

2. **Late Payment of Fees.** If we have not received payment within 30 days of the date of an invoice and without prejudice to any other rights and remedies available to us: (a) we may, without any liability to you, suspend or temporarily disable all or part of your access to the Services and we will be under no obligation to provide any access to the Services while the invoice(s) concerned remain unpaid; and (b) interest shall accrue on such due amounts at an annual rate equal to 3% over the then current base lending rate of Barclays Bank PLC at the date the relevant invoice was issued, commencing on the due date and continuing until fully paid, whether before or after judgment.

3. **Currency and Taxes.** All amounts and Fees stated or referred to in this Agreement: (a) are payable in the currency specified on the Order Form; and (b) are exclusive of value added tax ("VAT") unless otherwise expressly stated which shall be paid at the same time as payment of the Fees. We will send you a VAT invoice if you request one.

4. **Fees for Additional Users.** You may add additional Users by contacting your Artesian contact. Unless otherwise agreed, the addition of Users will be subject to the payment of additional fees by you and the terms of this Agreement. The Fees

payable for each additional User will be the then current, generally applicable User fee. Additional Users added in the middle of a Licence Term will be invoiced on a pro-rata basis from the date of the invoice to the end of the Licence Term. Please note that all pricing terms are confidential, and you must not disclose them to any third party.

5. **Incorrect Invoices.** If you believe your invoice is incorrect, you must contact us in writing within 10 days of the date of the invoice containing the amount in question to be eligible to receive an adjustment or credit.

6. **Other Fees Payable.** Any other Fees payable by you for other services provided will be charged on an as-quoted basis.

7. **Increase of Fees.** We may increase any Fees payable by an amount not more than 7% in the month preceding the last month of the Licence Term. Any such increase will take effect for each subsequent Licence Term. If you are unhappy with the increase, you may terminate this Agreement by providing a minimum of 30 days' notice, such notice not to expire until the end of the then current Licence Term.

8. **Accurate Billing and Contract Information.** You must provide us with complete and accurate billing and contact information. This information includes your legal company name, street address, e-mail address, and name and telephone number of an authorized billing contact and contract administrator (if any). You agree to update this information within 30 days of any change to it. If the contact information you have provided is false or fraudulent, we may immediately terminate your access to the Services in addition to any other legal remedies we may have.

## 5. TERM AND TERMINATION

1. **The Term of the Agreement.** This Agreement shall commence on the start date specified on the Order Form and shall continue until the end date as specified on the Order Form. After the end date, the Agreement will auto renew for periods specified on the Order Form or if no period is specified on the Order Form for further periods of one year.

2. **Termination by you.** During the Licence Term, you may terminate this Agreement or reduce the number of User licences, effective only upon the expiration of the then current Licence Term, by notifying us in writing (or using the functionality available in the Services) at least 30 business days prior to the end of the Licence Term. No refunds of any Fees paid to us will be provided if you cease your use of the Services prior to the end of the Licence Term.

3. **Termination by Artesian.** Any breach of your payment obligations or any unauthorized use of the Services or the App (including, but not limited to, any breach of section 2 of this Agreement) will be deemed a material breach of this Agreement. We, in our sole discretion and upon written notice to you (effective immediately), may terminate your access to the Services if you materially breach this Agreement. We may terminate this Agreement with immediate effect without any liability to you upon written notice to you if we receive a claim

that you are in breach of a third party's Intellectual Property Rights.

4. **Mutual Termination Options.** Either party may terminate the Agreement at any time on written notice to the other if the other is unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986), or becomes insolvent, or is subject to an order or a resolution for its liquidation, administration, winding-up or dissolution (otherwise than for the purposes of a solvent amalgamation or reconstruction), or has an administrative or other receiver, manager, trustee, liquidator, administrator or similar officer appointed over all or any substantial part of its assets, or enters into or proposes any composition or arrangement with its creditors generally, or is subject to any analogous event or proceeding in any applicable jurisdiction.

5. **Consequences of Termination.** On termination of this Agreement for any reason: (a) all licences granted under this Agreement shall immediately terminate; (b) you shall return and make no further use of the Services; (c) the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

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## 6. MISCELLANEOUS

1. **Limitation of Liability.** We will not be liable for any losses, whether in contract, tort (including negligence), breach of statutory duty or otherwise that fall into the following categories: loss of income or revenue; loss of business; loss of profits; loss

of anticipated savings; loss of data; waste of management or office time; or any indirect, consequential or special damages, costs or expenses.

Nothing in this Agreement excludes or limits our liability for death or personal injury caused by our negligence or for fraud or fraudulent misrepresentation.

Our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this Agreement, even if Artesian has been advised of the possibility of such damage, shall in all circumstances be limited to the total amount of Fees paid by you in the 12 months prior to the event giving rise to the claim.

**2. Indemnity.** You shall indemnify and hold us, our licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, employees, contractors and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including legal fees and costs) arising out of or in connection with: (a) a claim alleging that your use of the Content or any Third Party Data or your Customer Data infringes the rights of, or has caused harm to a third party; (b) a claim, which if true, would constitute a violation by you of your representations and warranties; or (c) a claim arising from the breach by you or your Users of this Agreement.

**3. Notice.** All notices given by you to us must be given to [accts@artesian.co](mailto:accts@artesian.co). We may give notice to you at either the email or postal address you have provided to us. Notice will be deemed received and properly served 24 hours after an e-mail is sent or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail that such e-mail was sent to the specified e-mail address of the addressee.

**4. Variation.** We have the right to revise and amend these Terms of Service from time to time to reflect changes of business practices or in market conditions affecting our business. You will be subject to the Terms of Service in force at the time you make use of the Services. We will use reasonable endeavours to notify you of any changes to this Agreement.

**5. Assignment.** You may not transfer, assign, charge or otherwise deal in the Agreement, or any of your rights or obligations arising under the Agreement, without our prior written consent.

**6. Events outside our Control.** No party shall be liable to the other for any delay or non-performance of its obligations under the Agreement arising from any cause beyond its control including, without limitation, any of the following: telecommunications failure, internet failure, act of God, governmental act, war, fire, flood, explosion or civil commotion. For the avoidance of doubt, nothing in this clause 6 shall excuse you from any payment obligations under the Agreement.

**7. Waiver.** A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given. Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

**8. Severance.** If any provisions (or part of a provision) of this Agreement are found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

**9. Entire Agreement.** This Agreement and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

**10. No Partnership or Agency.** Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name of or on behalf of or otherwise bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

**11. Third Party Rights.** This Agreement does not confer any rights on any person or party (other than the parties to this

Agreement) and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

**12. Governing Law and Jurisdiction.** This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual

disputes or claims) are governed by and construed in accordance with the laws of England and Wales. The parties irrevocably agree that the courts of England and Wales have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

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## 7. Definitions

In this Agreement, save where the context requires otherwise, the following words and expressions have the following meaning:

**"Agreement"** means these Terms of Service and any terms agreed to on the Order Form and any materials available on the Artesian website specifically incorporated by reference herein;

**"App"** has the meaning ascribed to it in section 2;

**"Artesian"** means Artesian Solutions Limited, a company registered in England and Wales under company number 05667880, having its registered address at 2 Winnersh Fields, Gazelle Close, Winnersh, Berkshire RG41 5QS. Our VAT number is 881 3415 24;

**"Confidential Information"** means information that is proprietary or confidential and is either clearly labelled as such;

**"Content"** means the textual, visual or aural content and any other information, data or materials generally available via the world wide web that you access via the Services;

**"Customer Data"** means any data or information such as email addresses transferred by you to us as a result of your use of the Services (excluding any Content or Third Party Data);

**"Customer Personal Data"** means any personal data (as defined in the GDPR) contained in the Customer Data, Third Party Data or other personal data that we process on your behalf in connection with our provision of the Services;

**"End User Licence Agreement ("EULA")"** means a licence between Artesian and your User for use of the App;

**"Fees"** means the amounts set out on the Order Form or otherwise agreed between you and Artesian for the provision of the Services or the provision of any other services;

**"GDPR"** means the General Data Protection Regulation 2016/679 of the European Parliament and the Council;

**"Intellectual Property Rights"** means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks (whether registered or unregistered), service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world;

**"Licence Term(s)"** means the period from the start date up to and including the end date, as specified on the Order Form;

**"Services"** means the services identified in section 1;

**"Order Form"** means the form or online sign up evidencing your subscription for the Services and any subsequent forms submitted online or in written form, specifying, among other things, the number of User licences and other services contracted for, the applicable fees, the billing period, and other charges as agreed to between the parties, each such form to be incorporated into and to become a part of this Agreement;

**"Third Party Data"** means any data or content provided by a third party via a subscription that you access through the Services; and

**"User"** means an individual, who is permitted by you to use the Service.