

Licence Agreement

1. DEFINITIONS AND INTERPRETATION

1.1 Unless the context otherwise requires, in this Agreement the following expressions shall have the following meanings:

“Agreement”	this licence agreement between Rittman Mead and You;
“Confidential Information”	all business and trade secrets, methods of doing business, policies and procedures, customer lists and other confidential information and material disclosed by or obtained from the other party in connection with this Agreement;
“Force Majeure”	as regards a party, any event or circumstance which is beyond the control of the party, unless conclusive evidence to the contrary is provided and which prevents or hinders it in the performance of its obligations under the Agreement including but not limited to strikes, lockouts, riots, act of war, terrorism, piracy, destruction of essential equipment by fire, explosion, storm, flood, earthquake or delay caused by failure of power supplies or transport facilities;
“Intellectual Property Rights”	patents, rights to inventions, copyright and related rights, trade marks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, moral rights, rights in confidential information (including without limitation know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world;
“Licensed Material”	any content accessed on the System for the benefit of training including but not limited to videos, slides & PDF documents;
“Rittman Mead”	Rittman Mead Consulting Ltd incorporated and registered in England and Wales with company number 06032852 whose registered office is Suite B First Floor Moore House,

11-13 Black Lion Street, Brighton, East Sussex BN1 1ND,
UNITED KINGDOM;

“System”	Rittman Mead’s On Demand Training site or any other system given access to for the purpose of training exercises;
“Term”	30 days per course from the first day of access to the Licenced Materials unless otherwise stated;
“Third Party Software”	the third party software which is required for the use of the Licensed Material whether licensed directly to the You by a third party or sub licensed by Rittman Mead.

1.2 In addition, in this Agreement:

1.2.1 headings are for convenience only and do not affect the interpretation of the terms and conditions set out in this Agreement;

1.2.2 a reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it;

1.2.3 words importing the male, female or neuter genders shall include the other genders and words in the singular include the plural and in the plural include the singular;

1.2.4 references to the “parties” are references to You and Rittman Mead and a reference to a “party” is a reference to either of them;

1.2.5 writing or written includes faxes but not e-mail nor any other form of electronic communication, except where expressly provided to the contrary.

2. GRANT

2.1 Rittman Mead grants to You a personal, non-transferable and non-exclusive license to use the Licensed Material or any portion thereof on the System for the Term subject to the terms and conditions of this Agreement.

2.2 The license granted herein includes the right to copy the Licensed Material for the purpose of (i) using the Licensed Material on the System; and (ii) for archive or emergency restart purposes.

2.3 In order to protect Rittman Mead’s trade secret and copyright rights in the Licensed Material, You agree to reproduce and incorporate Rittman Mead’s copyright notice and any other proprietary legends thereon in any such copies including partial copies in any form.

2.4 You may not use, copy, modify or transfer the Licenced Materials (including any related documentation) or any copy, in whole or in part, including any print-out of all or part of any database, except as expressly provided for in this Agreement. If you transfer possession of any copy of the Licenced Material to another party except as provided above, your licence is automatically terminated. You may not translate, reverse engineer, decompile, disassemble, modify or create derivative works based on the Licenced Material, except as expressly permitted by the law of this Agreement. You may not vary, delete or obscure any notices of proprietary rights or any product identification or restrictions on or in the Licenced Material.

3. UNDERTAKINGS

3.1 You undertake to use the Licensed Material only within the bounds of the terms and conditions of this Agreement and to ensure that, prior to use of the Licensed Material by Your employees or agents (where relevant), all such parties are notified of the terms and conditions of this Agreement.

4. SUPPORT

4.1 During the Term You agree to inform Rittman Mead of all errors, difficulties or other problems with the Licensed Material. Rittman Mead will make a reasonable effort (a) to fix reported error and (b) to provide You with support and consultation concerning the Licensed Material. In the event that Rittman Mead does not attempt to fix reported errors, Rittman Mead will make a reasonable effort to develop “workarounds”. The reasonable effort, support and consultation undertaken by Rittman Mead as contemplated in this clause 4.1 shall be such reasonable effort, support and consultation as Rittman Mead, in its sole discretion, shall determine.

4.2 Rittman Mead may, at its sole discretion, make personnel available to You to assist You in the use of the Licensed Material.

5. TERMINATION

5.1 Either party shall be entitled, without prejudice to any other rights or remedies available to it under or in connection with this Agreement, to terminate this Agreement forthwith by notice in writing if the other party:

5.1.1 commits a material breach of any of its obligations under the Agreement which is capable of remedy and does not remedy such breach within thirty days after written notice has been given to it by the other party;

5.1.2 commits an irremediable material breach of any of its obligations under the Agreement;

5.1.3 is unable by reason of Force Majeure to perform any of its material obligations under the Agreement for a period of 90 consecutive days;

5.1.4 becomes insolvent or enters into liquidation or receivership or is the subject of

an application for an administration order or suffers an administrative receiver to be appointed in relation to the whole or any part of its assets or makes a composition or arrangement with its creditors or suffers any judgment to be executed in relation to any of its property or assets.

5.2 Rittman Mead may terminate this Agreement at any time with 30 days prior written Notice.

6. CONSEQUENCES OF TERMINATION

6.1 Upon termination of this Agreement for whatever reason Rittman Mead will have the right, at any time, to take immediate possession of the Licensed Material and all copies wherever located and without demand or notice. Within five (5) days after termination of the Agreement, You (a) will return to Rittman Mead the Licensed Material in the form provided by Rittman Mead and all copies in whole or in part made by You, or (b) upon request by Rittman Mead destroy the Licensed Material and all copies, and certify in writing that they have been destroyed.

6.2 Termination of this Agreement shall not prejudice any provision herein which is expressed to remain in effect despite such termination and shall not prejudice any right of either party which shall have accrued on or before such termination

7. PROPRIETARY RIGHTS

7.1 The Licensed Material and all copies thereof are Rittman Mead proprietary and title thereto remains in Rittman Mead. All applicable rights in Intellectual Property Rights in the Licensed Material are and will remain in Rittman Mead. You shall not sell, transfer, publish, disclose, display or otherwise make available the Licensed Material or copies thereof in any form whatsoever, including but not limited to flow charts, logic diagrams, object codes and technical documentation, to any third parties without the prior written approval of Rittman Mead. You agree to secure and protect the Licensed Material and copies thereof in a manner consistent with the maintenance of Rittman Mead's right therein and to take appropriate action by instruction or agreement with its employees who are permitted access to the Licensed Material or copies thereof to satisfy its obligations hereunder.

7.2 Rittman Mead shall indemnify You against any claim that the normal use or possession of the Licensed Material infringes the intellectual property rights of any third party provided that Rittman Mead is given control of any such claim and that You give Rittman Mead such assistance as may be reasonably required to settle or oppose any such claim provided that Rittman Mead shall meet Your costs of so doing.

7.3 Rittman Mead shall have the right to replace or change all or any part of the Licensed Material in order to avoid infringement or alleged infringement.

8. WARRANTY

8.1 Each party represents and warrants that it has the legal power to enter into this Agreement.

8.2 EXCEPT AS EXPRESSLY PROVIDED HEREIN, RITTMAN MEAD MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

9. THIRD PARTY SOFTWARE

9.1 You undertake to obtain the required number of licences in relation to the Third Party Software ("**Third Party Software Licence**"), comply with any additional Third Party Software conditions notified to it on or before the delivery of any Third Party Software (including if so required the execution and return of a Third Party Software Licence), pay all necessary licence fees and indemnify Rittman Mead against any direct and reasonable costs incurred by Rittman Mead as a result of any breach by Rittman Mead of the Third Party Software Licences;

9.2 You shall ensure that the operating system and any other software with which the Third Party Software will be used is either the property of You or is legally licensed to You and to indemnify Rittman Mead in respect of any claims against Rittman Mead by third parties and all related direct and reasonable costs, in the event of any actual or alleged infringements of third party proprietary rights or software licences.

10. CONFIDENTIALITY

10.1 At all times each party shall keep secret and confidential all Confidential Information. Each party undertakes not to disclose the Confidential Information to any third party other than its responsible employees who require such disclosure where bona fide necessary for the proper performance of their duties hereunder and who will individually comply with all obligations of confidentiality imposed upon the parties by the provisions of this clause 10. Each party undertakes to take all reasonable steps to minimise the risk of disclosure of the Confidential Information by employees and others.

10.2 The obligations of confidentiality under clause 10.1 shall not apply to any information or material which the recipient party can prove:

10.2.1 was already known to it prior to its receipt from the disclosing party;

10.2.2 was subsequently disclosed to it lawfully by a third party who lawfully obtained the same and who was not bound by any obligation of confidence in respect thereof to the disclosing party;

10.2.3 was in the public domain at the time of receipt by the recipient or has subsequently entered into the public domain other than by reason of the breach of the provisions of this clause 10 or breach of any obligation of confidence owed by the recipient;

10.2.4 was independently developed by the recipient party without use of or reference to the disclosing party's Confidential Information.

11. LIABILITY

11.1 This clause 11 sets out the entire financial liability of Rittman Mead (including any acts or omissions of it, its employees, agents, consultants and sub-contractors) to You in respect of: any breach of the Agreement; any use made by You of the Licensed Material; and, any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Agreement.

11.2 Subject to clause 11.3, Rittman Mead's total liability shall be limited to a sum equal to the fees paid in the year in which a claim arises for any one event or connected events.

11.3 Nothing in the Agreement shall exclude or limit the liability of either party for death or personal injury resulting from the negligence of that party or any of its officers, employees or agents or for fraudulent misrepresentation.

11.4 Notwithstanding any other provision of this Agreement neither party be liable for indirect or consequential loss of whatever nature, howsoever caused, whether occurring in contract, tort, negligence or otherwise.

12. FORCE MAJEURE

Either party may delay performance of its obligations under this Agreement if it is prevented from or delayed in carrying out its obligations by a Force Majeure event.

13. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between Rittman Mead and You as to the subject matter hereof and supersedes all previous communications, representations and Agreements, whether written or oral, and You hereby acknowledges that no reliance is placed on any representation made but not embodied in this Agreement

14. WAIVER

Delay in exercising, or a failure to exercise, any right or remedy in connection with the Agreement shall not operate as a waiver of that right or remedy. A single or partial exercise of any right or remedy shall not preclude any other or further exercise of that right or remedy, or the exercise of any other right or remedy. A waiver of a breach of the Agreement shall not constitute a waiver of any subsequent breach.

15. ASSIGNMENT

You shall not assign, transfer, mortgage, charge or deal in any other manner with any or all of Your rights and obligations under this Agreement without the prior written consent of Rittman Mead.

16. THIRD PARTY RIGHTS

This Agreement does not create, confer or purport to confer any benefit or right enforceable by any person not a party to it by virtue of the Contracts (Rights of Third Parties) Act 1999.

17. NOTICES

Any notice required to be given under the Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other Party.

18. RELATIONSHIP BETWEEN PARTIES

Nothing in the Agreement is intended to or shall constitute or be deemed to constitute a partnership or other form of joint venture between the parties or constitute or be deemed to constitute either party the agent or employee of the other for any purpose whatsoever.

19. THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

No person who is not a party to the Agreement is entitled to enforce any of its terms, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

20. SEVERANCE

The parties intend each provision of the Agreement to be severable and distinct from the others. If a provision of the Agreement is held to be illegal, invalid or unenforceable, in whole or in part, the parties intend that the legality, validity and enforceability of the remainder of the Agreement shall not be affected.

21. GOVERNING LAW AND JURISDICTION

This Agreement and all matters arising out of or relating to this Agreement shall be governed by and interpreted in accordance with English law and shall be subject to the exclusive jurisdiction of the English Courts.