

TRUTAC LIMITED
STANDARD TERMS AND CONDITIONS



- 1. INTERPRETATION**
- 1.1 The definitions and rules of interpretation in this clause apply in the Contract.
Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 17.2
Confidential Information: information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 11.5.
Contract: the contract between TruTac and the Customer for the supply of the Services in accordance with the Quotation and/or the Special Conditions and these Conditions.
Contract Period: the duration of the Contract being the initial period stated in the Quotation or Special Conditions but automatically continuing thereafter for subsequent yearly periods until either party gives to the other at least 3 months' notice to terminate the Contract at the end of the relevant year.
Customer: the person or firm who purchases the Services from TruTac.
Data: the data inputted by the Customer, the User, or TruTac on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services.
Equipment: any hardware or equipment supplied by TruTac to the Customer.
Fees: the prices payable by the Customer to TruTac for the Services and the Equipment, as specified in the Quotation or any Special Conditions.
Force Majeure Event: has the meaning given in clause 11.
Normal Business Hours: 8.30 am to 5.00 pm Mon to Thurs and 8.30 am to 4.00 pm on a Fri, local UK time, each Business Day.
Order: the Customer's order for Services, as set out in the Customer's purchase order form or the Customer's written acceptance of TruTac's Quotation or any additional Special Conditions.
Maintenance Contract: contracted conditions relating to DigiPostPro maintenance, support and data sims (if specifically ordered) as detailed in **Appendix A**.
Fair Use Policy: as defined in **Appendix B**.
Service Level Agreement (SLA): as defined in **Appendix C**.
Prepaid Duties: the user licences purchased by the Customer which entitle Users to access and use the Services in accordance with the Contract.
Quotation: the written quotation for the supply of the Services and any Equipment issued by TruTac to the Customer.
Renewal Period: the period of continuation of the Contract Period following the expiration of the initial period.
Services: The software, web-access and other services specified in the Special Conditions and to be provided to the Customer pursuant to these Standard Terms & Conditions to enable the Customer to upload data obtained from the Equipment to the Website and enable the Customer to view, analyse and produce reports on the uploaded Data.
Special Conditions: Additional conditions (if any) set out in the front sheet to the Contract or Order form.
Support Services Policy: TruTac's policy for providing support in relation to the Services as made available at the Website.
TruTac: TruTac Limited (Company number 02521511) whose registered office is at Units 5 & 6, Westwood House, Westwood Business Park, Coventry, CV4 8HS. TruTac is part of the Microlise Group of Companies Microlise Group plc - Registered in England and Wales No. 11553192 - Microlise, Farrington Way, Eastwood, Nottingham, Nottinghamshire, England, NG16 3AG
Users: those employees or other workers of the Customer who are authorised by the Customer and by the Conditions to use the Services.
Virus: anything or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.
Website: TruTac's sites www.trutac.co.uk www.trucontrol.co.uk www.cptanalysis.co.uk www.trulicence.co.uk and www.trucontrolpsv.co.uk or such other website notified to the Customer by TruTac.
- 1.2 The definitions contained in the contract or the Special Conditions shall apply, where the context so admits, to words or phrases contained in these conditions
- 1.3 Clause, schedule and paragraph headings shall not affect the interpretation of these conditions.
- 1.4 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.
- 1.5 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of the Contract.
- 1.9 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of the Contract under that statute or statutory provision.
- 1.10 References to clauses and schedules are to the clauses and schedules of these conditions.
- 2. BASIS OF CONTRACT**
- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate under any purchase order, confirmation of order or otherwise, or which are implied by trade, custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by the Customer to purchase the Services and Equipment in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order are complete and accurate.
- 2.3 The Order shall only be deemed to be accepted when TruTac issues a written acceptance of the Order (Acceptance Date), at which point the Contract comes into existence. The Contract cannot be cancelled by the Customer without the written consent of TruTac. The Order confirmation can be accepted by E-signature, Email, hard copy or PDF scanned.
- 2.4 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of TruTac which is not set out in the Contract.
- 2.5 A quotation for Services and/or Equipment given by TruTac shall not constitute an offer. A quotation shall only be valid for a period of 20 Business Days from its date of issue.
- 3. PREPAID DUTIES**
- 3.1 Subject to the Customer purchasing the Prepaid Duties and paying the Fees in accordance with clause 4.2 and clause 9.1, the restrictions set out in this clause 2 and the other terms and conditions of the Contract, TruTac hereby grants to the Customer a non-exclusive, non-transferable right to permit the User to use the Services during the Contract Period solely for the Customer's business operations.
- 3.2 without prejudice to the other terms and provisions of these Conditions, TruTac shall during the continuance of the Contract allow the Customer to exceed the number of Prepaid Duties purchased by the Customer by up to 10% with no extra charge save that TruTac may in its discretion upon the termination of the Contract make a retrospective pro-rata charge in respect of any excess during the Contract Period, such charge to be notified to the Customer 30 days following the date of termination and to be payable by the Customer within 30 days of the date of invoice for such charge.
- 3.3 If at any time the number of transactions shall exceed the number of prepaid transactions by more than 10% the Customer shall pay to TruTac additional Fees (at the relevant rate) for such excess number of transactions on the same basis as provided in clause 9
- 3.4 The Customer shall not use the Services or permit the Services to be used save for the purposes of its own business uses and in accordance with the provisions of the Contract.
- 3.5 The Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:
- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - (b) facilitates illegal activity;
 - (c) depicts sexually explicit images;
 - (d) promotes unlawful violence;
 - (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability;
 - (f) in a manner that is otherwise illegal or causes damage or injury to any person or property;
- and TruTac reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.
- 3.6 The Customer shall not:
- (a) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the software used in the delivery of service;
 - (b) access all or any part of the Services in order to build a product or service which competes with the Services;
 - (c) use the Services to provide services to third parties;
 - (d) attempt to obtain, or assist third parties in obtaining, access to the Services;
- 3.7 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and, in the event of any such unauthorised access or use, promptly notify TruTac;
- 3.8 The rights provided under this clause 3 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer;
- 3.9 In the event that the Customer shall in the reasonable opinion of TruTac breach any of the provisions of this clause 3 TruTac shall be entitled, without any liability to the Customer, to suspend, disable or terminate the Service or the Customer's access to any material or Data on the Website.

- 4. ADDITIONAL PREPAID DUTIES**
- 4.1 Subject to 4.2, the Customer may, from time to time during the Contract Period and with TruTac's approval purchase additional Prepaid Duties in excess of the number set out in the Order or the Special Conditions and TruTac shall grant access to the Services to such additional Prepaid Duties in accordance with the provisions of the Contract.
- 4.2 If TruTac approves the Customer's request to purchase additional Prepaid Duties, the Customer shall pay to TruTac the relevant fees for such additional Prepaid Duties at the Fee rate set out in the Fee Schedule (as varied from time to time).
- 5. SERVICES**
- 5.1 TruTac shall, during the Contract Period, provide the Services to the Customer on and subject to the terms of the Contract.
- 5.2 TruTac shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:
- (a) planned maintenance carried out during the maintenance window of 10.00 pm to 2.00 am UK time; and
- (b) unscheduled maintenance performed outside Normal Business Hours, provided that TruTac has used reasonable endeavours to give the Customer at least 6 Normal Business Hours' notice in advance.
- 5.3 TruTac will, as part of the Services and at no additional cost to the Customer, provide the Customer with TruTac's standard customer support services during Normal Business Hours in accordance with TruTac's Support Services Policy in effect at the time that the Services are provided. TruTac may amend the Support Services Policy in its sole and absolute discretion from time to time.
- 6. THE EQUIPMENT**
- 6.1 TruTac shall wherever possible pass on to the Customer the benefit of any manufacturer's warranty in relation to any Equipment supplied by TruTac to the Customer.
- 6.2 TruTac shall not provide any repair or maintenance of the Equipment save in accordance with a separate maintenance agreement (if any)
- 6.3 Subject thereto TruTac shall have no liability to the Customer for any failure in the Equipment and the terms implied by section 13 to 15 of the Sale of Goods Act 1979 and by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 7. DATA AND GDPR**
- 7.1 The Customer shall own all right, title and interest in and to all of the Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Data.
- 7.2 TruTac complies with The Data Protection Act 2018 ("DPA 2018") and the General Data Protection Regulation 2016/679 ("GDPR") and all legal obligations in connection with the processing of personal data. Full privacy notices, data protection policies and Security policies are available at all times on our website www.trutac.co.uk/privacy-policy/
- 7.3 If TruTac processes any personal data on the Customer's behalf when performing its obligations under the Contract, the parties record their intention that the Customer shall be the data controller and TruTac shall be a data processor and in any such case:
- (a) TruTac acknowledges and agrees that personal data will not be transferred or stored outside the EEA;
- (b) the Customer shall ensure that the Customer shall collect the personal data in accordance with fair and lawful practices and in accordance with Data Protection legislation and that it is entitled to control and transfer the relevant personal data to TruTac so that TruTac may lawfully use, process and transfer the personal data in accordance with the Contract on the Customer's behalf;
- (c) the Customer shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation;
- (d) TruTac shall use the personal data solely for the purposes of the Contract and shall process the personal data only in accordance with the terms of the Contract and any lawful instructions reasonably given by the Customer from time to time;
- (e) each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage; and
- (f) the Customer will indemnify and keep TruTac indemnified from and against any fines, costs, claims, damages or expenses arising from a breach of the Customer's obligations contained in this clause 7.3.
- 7.4 TruTac and other companies engaged by TruTac in the provision of these Services shall, subject to confidentiality and GDPR contained in these Standard Conditions, be entitled to process and use Data for their own internal business purposes, including but not limited to, the development and testing of their own products and software.
- 7.5 TruTac shall follow its archiving procedures for Data as set out in its Data Protection and IT Security Policies available at the website, as such document may be amended by TruTac in its sole discretion from time to time. In the event of any loss or damage to Data, the Customer's sole and exclusive remedy shall be for TruTac to use reasonable commercial endeavours to restore the lost or damaged Data from the latest back-up of such Data maintained by TruTac in accordance with the archiving procedure described in its Data Protection and IT Security Policies. TruTac shall not be responsible for any loss, destruction, alteration or disclosure of Data caused by any third party (except those third parties sub-contracted by TruTac to perform services related to Data maintenance and back-up).
- 8. CUSTOMER'S OBLIGATIONS**
The Customer shall:
- (a) provide TruTac with:
- (i) all necessary co-operation in relation to the Contract; and
- (ii) all necessary access to such information as may be required by TruTac;
- (b) to enable TruTac to provide the Services which comply with all applicable laws and regulations with respect to its activities under the Contract;
- (c) carry out all other Customer responsibilities set out in the Contract in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, TruTac may adjust any agreed timetable or delivery schedule as reasonably necessary;
- (d) ensure that the Users use the Services in accordance with the terms and conditions of the Contract and shall be responsible for any User's breach of the Contract;
- (e) obtain and shall maintain all necessary licences, consents, and permissions necessary for TruTac, its contractors and agents to perform their obligations under the Contract, including without limitation the Services;
- (f) ensure that its network and systems comply with the relevant specifications provided by TruTac from time to time; and
- (g) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to TruTac's data centres, and all problems, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.
- 9. CHARGES AND PAYMENT**
- 9.1 The Customer shall pay the Fees to TruTac for the Prepaid Duties and for the Service within 30 days of the date of the invoice issued by TruTac unless the parties agree the payment to be deducted directly from the Customer account via Direct Debit or recurring card payment on a monthly or annual basis.
- 9.2 If TruTac has not received payment within 30 days after the due date, or failed to debit the payment on the customer account via Direct Debit or failed recurring card payment and without prejudice to any other rights and remedies of TruTac:
- (a) TruTac may, without liability to the Customer, disable the Customer's account and access to all or part of the Services and TruTac shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
- (b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 8% over the current base lending rate of The Bank of England, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 9.3 All amounts and fees stated or referred to in the Contract:
- (a) shall be payable in pounds sterling;
- (b) are, subject to clause 13.4(b), non-cancellable and non-refundable;
- (c) are exclusive of value added tax, which shall be added to TruTac's invoice(s) at the appropriate rate.
- 9.4 TruTac shall be entitled to increase the Fees, and the fees payable in respect of the additional Prepaid Duties purchased pursuant to clause 4.2 at the start of each Renewal Period upon 90 days' prior notice to the Customer and the Fees Schedule shall be deemed to have been amended accordingly.
- 9.5 TruTac retains the right to review the Fees annually after the anniversary of the Acceptance Date pursuant to any upwards movement in the Retail Price Index (RPI)
- 10. PROPRIETARY RIGHTS**
- The Customer acknowledges and agrees that TruTac and/or its licensors own all intellectual property rights in the Services. Except as expressly stated herein, the Contract does not grant the Customer any rights to, or in, patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services.

- 11. CONFIDENTIALITY**
- 11.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under the Contract. A party's Confidential Information shall not be deemed to include information that:
- (a) is or becomes publicly known other than through any act or omission of the receiving party;
 - (b) was in the other party's lawful possession before the disclosure;
 - (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
 - (d) is independently developed by the receiving party, which independent development can be shown by written evidence; or
 - (e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 11.2 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 the Contract.
- 11.3 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 the Contract.
- 11.4 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 11.5 The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute TruTac's Confidential Information.
- 11.6 TruTac acknowledges that the Data is the Confidential Information of the Customer.
- 11.7 This clause 11 shall survive termination of the Contract, however arising.
- 11.8 TruTac may use an outline description of the Customer and the Services in its promotional literature and other marketing materials, but otherwise no party shall make, or permit any person to make, any public announcement concerning the Contract without the prior written consent of other parties (such consent not to be unreasonably withheld or delayed), except as required by law, governmental or regulatory authority (incl without limitation, any relevant securities exchange), any court or jurisdiction authority.
- 12. INDEMNITY**
- 12.1 The Customer shall defend, indemnify and hold harmless TruTac against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Services, provided that:
- (a) the Customer is given prompt notice of any such claim;
 - (b) TruTac provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and
 - (c) the Customer is given sole authority to defend or settle the claim.
- 12.2 In no event shall TruTac, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:
- (a) a modification of the Services by anyone other than TruTac; or
 - (b) the Customer's use of the Services in a manner contrary to the instructions given to the Customer by TruTac; or
 - (c) the Customer's use of the Services after notice of the alleged or actual infringement from TruTac or any appropriate authority.
- 12.3 The foregoing and clause 13.4(b) state the Customer's sole and exclusive rights and remedies, and TruTac's (including TruTac's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.
- 13. LIMITATION OF LIABILITY**
- 13.1 This clause 13 sets out the entire financial liability of TruTac (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer:
- (a) arising under or in connection with the Contract;
 - (b) in respect of any use made by the Customer of the Services or any part of them; and
 - (c) in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.
- 13.2 Except as expressly and specifically provided in the Contract:
- (a) the Customer assumes sole responsibility for results obtained from the use of the Services by the Customer, and for conclusions drawn from such use. TruTac shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to TruTac by the Customer in connection with the Services, or any actions taken by TruTac at the Customer's direction;
 - (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from the Contract; and
 - (c) the Services are provided to the Customer on an "as is" basis.
- 13.3 Nothing in the Contract excludes the liability of TruTac:
- (a) for death or personal injury caused by TruTac's negligence; or
 - (b) for fraud or fraudulent misrepresentation.
- 13.4 Subject to clause 13.2 and clause 13.3:
- (a) TruTac shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under the Contract; and
 - (b) TruTac's total aggregate 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 the Contract shall be limited to the total Fees paid for the Prepaid Duties during the 12 months immediately preceding the date on which the claim arose.
- 14. TERM AND TERMINATION**
- 14.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party fails to pay any amount due under the Contract on the payment due date and remains in default not less than 14 days after being notified in writing to make such payment;
 - (b) the other party commits a material breach of any other term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
 - (c) the other party repeatedly breaches any of the terms of the Contract 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 the Contract;
 - (d) 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 is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 ;
 - (e) 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 its creditors 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;
 - (f) 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 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;
 - (g) 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;
 - (h) the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
 - (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - (j) 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 14.1(d) to clause (i)(inclusive); or
 - (k) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;

- 14.2 On termination of the Contract for any reason:
- (a) all licences granted under the Contract shall immediately terminate;
 - (b) all Fees and other amounts due to TruTac shall become immediately payable by the Customer
 - (c) each party shall return and make no further use of any equipment, property and other items (and all copies of them) belonging to the other party;
 - (d) the Customer may purchase a Licence to view historical Data but subject thereto TruTac may destroy or otherwise dispose of any of the Data in its possession unless TruTac receives, no later than ten days after the effective date of the termination of the Contract, a written request for the delivery to the Customer of the then most recent back-up of the Data. TruTac shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by TruTac in returning or disposing of Data; and
 - (e) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.
- 15. FORCE MAJEURE**
TruTac shall have no liability to the Customer under the Contract if it is prevented from or delayed in performing its obligations under the Contract, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of TruTac or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.
- 16. CONFLICT**
If there is an inconsistency between any of the provisions in the Contract or the Special Conditions, and these Conditions, the provisions in the main body of the Contract or the Special Conditions shall prevail.
- 17. VARIATION**
17.1 No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
17.2 These Conditions may be varied from time to time by TruTac and the Conditions as so varied and either notified to the Customer or published on TruTac's Website shall be the Conditions applicable to the Contract.
- 18. WAIVER**
No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 19. RIGHTS AND REMEDIES**
Except as expressly provided in the Contract, the rights and remedies provided in the Contract are in addition to, and not exclusive of, any rights or remedies provided by law.
- 20. SEVERANCE**
20.1 If any provision (or part of a provision) of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
20.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 21. ENTIRE AGREEMENT**
21.1 The Contract, 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.
21.2 Each of the parties acknowledges and agrees in entering into the Contract it does not rely on any undertaking, promise, assurance, representation, warranty or understanding (whether in writing or not) of any person (whether party to the Contract or not) relating to the subject matter of the Contract, other than expressly set out in the Contract.
- 22. ASSIGNMENT**
22.1 The Customer shall not, without the prior written consent of TruTac, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.
22.2 TruTac may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 23. NO PARTNERSHIP OR AGENCY**
Nothing in the Contract 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 or on behalf of or otherwise to 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).
- 24. THIRD PARTY RIGHTS**
The Contract does not confer any rights on any person or party (other than the parties to the Contract and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 25. NOTICES**
25.1 Any notice required to be given under the Contract 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 at its address set out in the Contract, or such other address as may have been notified by that party for such purposes, or sent by fax to the other party's fax number as set out in the Contract.
25.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).
- 26. GOVERNING LAW**
The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 27. JURISDICTION**
Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).
The Contract has been entered into on the date stated at the beginning of it.

APPENDIX A AGREEMENT TO TERMS AND CONDITIONS FOR USE OF DIGIPOSTPRO PRODUCT AND MAINTENANCE / SUPPORT CONTRACT (IF PURCHASED)

Section 1 - Product Introduction

Section 2 – Product Versions

Section 3 – Maintenance and Data Transfer Charges

Section 1. Product Introduction

The Digipostpro enables remote downloading of tachograph data files, direct to TruTac for analysis. To have a TruTac Digipostpro you MUST have a TruTac software licence. To purchase the maintenance package please ensure you state this at the time of ordering the Digipostpro. For further information on Digipostpro boxes or support packages please contact one of our Sales Team on 024 7690 000 or email sales@trutac.co.uk.

Section 2. Product Versions

There are 3 versions:

- 1 - Local Area Network (LAN) connected Digipostpro which transmits data across the local area network - Product Code: HWDPPPL (LAN Version)
- 2 - GPRS version which connects and transfers data via a SIM card (data charges apply) - Product Code: HWDPPG (GPRS Version)
- 3 – WiFi version which connects and transfers data via a WiFi connection – Product Code: HWDPPW (WiFi Version)

Section 3. Maintenance and Data Transfer Charges

To simplify the maintenance and management of the boxes and data transfer for the GPRS version, TruTac provide a highly competitive maintenance and data packages for the GPRS version.

A – TruTac Monthly Maintenance Package and Data Charges for GPRS Digipostpro's (includes SIM and all Data charges):

£120 per unit per year* *TruTac is entitled to vary the monthly Fees subject to 1 months' notice at any time, (for example should data charges increase or if hardware charges increase accordingly.)

Monthly charges cover:

- a) Software and Hardware support, advice and software Updates - automatic firmware updates with no interaction required.
- b) Digipostpro's swap out in the event of mechanical failure whilst maintenance contract is in place.
- c) SIM Data transfer costs – (with fair usage policy – max usage on data per box = data for 100 drivers a day and 100 vehicles a month per box, for greater usage please discuss extra charges via TruTac Support or Sales team. Failure to do so will result in penalty charges being applied for overuse. Any costs above the fair usage policy will be charged at £0.50 per MB of data transferred.)
- d) SIM Mobile connectivity charges – (with fair usage policy – max usage on data per box = data for 100 drivers a day and 100 vehicles a month per box, for greater usage please discuss extra charges via TruTac Sales team. Failure to do so will result in penalty charges being applied for overuse. Any costs above the fair usage policy will be charged at £0.50 per MB of data transferred.)
- e) Faulty SIM cards swapped out next working day via post (must be swapped by site.)
- f) Enhanced faults swap out service – We aim to swap out and faulty units within a maximum of 14 working days. (We will send out a refurbished box as soon as faulty box is received)

To comply with Digipostpro maintenance package conditions the customer must adhere to:

- a) Ensuring the box and download tool are only used for what they are designed for and maintain the box and download tool and keep it in a suitable working environment.
- b) Not alter, disassemble or reverse engineer the box, download tool or SIM card and not remove the SIM card from the Digipostpro without consent from TruTac Support.
- c) If returning the box - it must be packaged securely and returned with all items/ contents when requested.
- d) Deliberate damage and accidental damage is not covered by the maintenance policy.
- e) There is a one-year manufacturer's warranty with the Digipostpro box and the Digivu and TruTac enhance this by providing a 'Quick' turnaround on faults compared to the manufacturers 'up to' 14 working days turnaround, the TruTac turnaround is a maximum 7 working days from point of receiving the Digipostpro at the TruTac office or other chosen location by TruTac support.
- f) When contracts are greater than 1 year TruTac continues to provide a warranty swap out even though the manufacturer's warranty has expired.
- g) Maintenance packages can be purchased at a later date but only subject to prior agreement with TruTac Support. In this instance where Digipostpro's are either not purchased from TruTac or are older than 1 year then the maintenance contract will start at the second year higher price.
- h) Work in a co-operative and constructive manner with TruTac and such other third parties as TruTac may require (incl. without limitation, any third-party suppliers) to the extent necessary for the effective provision of the Services and hardware.
- i) If notified by TruTac of any potential delay by TruTac in the performance of its obligations under the Agreement which is likely to be attributable to the Customer, take reasonable steps to address any issues giving rise to such potential delay.
- j) If TruTac is prevented from or delayed in carrying out its obligations under the Agreement by reason of any delay, act or omission of any party other than TruTac, its agents or sub-contractors then notwithstanding anything else contained in the Agreement, TruTac will not be liable for such delay or failure and will be entitled to a time extension for performing its obligations at least equal to the period of delay. Any additional work required to be performed by TruTac as a result of any such delay or failure will be paid for by the Customer. Any such delay lasting more than ten (10) Working Days will entitle TruTac to terminate any affected Service or all of the Agreement immediately upon written notice to the Customer.
- k) The Customer should ensure that it and its Licensed Users comply with these Terms.

APPENDIX B TERMS AND CONDITIONS FOR FAIR USE POLICY

TruTac Fair Use Policy

This TruTac Fair Use Policy ("Fair Use Policy") is also part of the TruTac Terms and Conditions, or a successor URL (the "Agreement") entered into between you ("Customer") and TruTac Limited ("Supplier" or "TruTac"). The Supplier (TruTac) provides various Services including multi-tenant SaaS solutions. This fair use policy seeks to ensure an optimal, as well as fair, user and support experience. The Supplier is committed to an up-front, simple and transparent subscription pricing model.

We do have extra fees for storage, data, API's, tailored training and support for customers with specific requirements but these are always disclosed in advance (for example with TruDocuments or TruLinks) and we pride ourselves on no extra hidden charges when the services are used reasonably and normally. To maintain the position of transparent pricing we need to ensure the provision of services is not monopolised. That is why we monitor all Services, storage, API's, support and technical usage according to this Fair Use Policy.

This Policy exists to prevent improper use of the software or abnormal use of Services, so we can offer all our customers an excellent experience. The Fair Use Policy covers, but is not limited to, elements such as support, users, data, storage, SIMS, traffic, training, emails and compute – this includes for example file storage, database size, the amount of internal and external network traffic including web traffic, the number of emails sent from and received by our servers, and the amount of and length of database and API requests – including CPU time, memory use and queue lengths across all Services.

TruTac does not charge extra costs when the Services are used reasonably and normally. When we determine the scope of Fair Use we consider your contract size, the observed use of more than expected users, technical advances and the current price rate of all necessary assets. We'll adjust these values when there is reasonable cause. In general, this will often mean expansion and raising of thresholds and reducing the cost of excessive use, because of lower costs of cloud storage and cloud computing.

We will inform you, when these changes could or do affect your costs or use. When we detect something out of the ordinary in your TruTac SaaS environment or Service usage, we'll contact you to discuss the situation and potential alternatives. In extreme cases, we may be required to limit the Service usage (e.g. limit your access to support, available storage, bandwidth, database usage, API usage, SIMS data, or allowed emails). Alternatively, we may discuss with you alternative options for managing your operational needs.

Support

Support is typically provided free of charge as part of the Services we offer. To ensure all customers have equal access to support, we may charge for specific or specialist access to support or bespoke or multiple training sessions customers consuming more than expected support time, or logging more support issues than a typical customer with similar users and a similar subscription.

Storage

Within your TruControl online portal (including TruDocuments) you can store documents to record driver debriefs, vehicle information, and other data including scans or pictures. We have limits on the amount of data you can save and the amount of storage will depend on your type of contract and number of drivers or vehicles. Extra storage space is available to purchase at any time at reasonable rates. You can request the actual size of your data storage from our support team. You can free up more storage by removing data yourselves or asking us to help you in deleting data no longer required. If we detect your organisation saves more data, we'll contact you to discuss the situation. It's possible to expand your storage and, if appropriate we'll contact you to discuss increasing your storage or alternative options.

Network Traffic and Bandwidth

To prevent a negative effect of excessive network traffic on your user experience or that of others, we monitor the traffic. We compare your use to the average use of our customers with the same contract. With normal use you don't have to worry about the network available to you. If we detect a situation that could lead to a decrease in service, we will contact you to discuss the situation.

Amount of sent and received emails

To prevent spam, we use worldwide blacklists, and spam blockers among other things. To guarantee smooth email traffic from our SaaS products for you and our other customers, we monitor the mail servers. Spam and blacklisting could happen when excessive amounts of emails are sent from the SaaS environments, for example. We maintain very broad margins based on the average use of our SaaS customers with similar contracts. With normal use, you won't notice a thing. When we detect abnormal values that could negatively impact the service, we may limit the number of emails you can send, or take other action as appropriate. Before we do this, or in urgent situations immediately after doing so, we'll always contact you to discuss possible solutions.

Compute and Load

To prevent a negative effect of excessive use of resources, on your user experience or that of others, we monitor the data resources and API's. We compare your use to the average use of all our SaaS customers with the same contract. With normal use you don't have to worry about the services available to you. Where increased usage is caused by the normal growth of users and customers, we will scale resources. If we detect a situation reflecting abnormal use or that could lead to a decrease in service, we will contact you to discuss. In some situations, we can intervene by limiting the available resource.

Urgent and Extreme Cases

In an urgent or extreme case, for example where services are likely to be significantly impacted, or where we believe your system or ours is under attack (a DDOS - denial of service attack for instance) or where we believe your system or ours has been compromised (for example a hacker or security breach) we may stop the services, or temporarily block access. Before we do this, or in urgent situations immediately after doing so, we'll always contact you.

In some cases, even without an attack or breach, if your use of the services continues to impact other users, is expected to do so, or is generating costs to us that are not normal when compared to other customers on the same contract and make our service to you unprofitable to maintain, we may isolate your services and pass the costs onto you. Before we do this, or in urgent situations immediately after doing so, we'll always contact you to discuss.

APPENDIX C SERVICE LEVEL AGREEMENT FOR TRUTAC'S SOFTWARE SYSTEMS, TACHOGRAPH ANALYSIS, HARDWARE AND SUPPORT

The contents of this SLA and any agreed Minimum Specification Service Standards and KPI's may be assessed and reviewed at any time with the client.

Contents

1. Contact Details
2. List of software products (relevant to licences purchased)
3. Service Level Agreements Table
4. Performance Statistics and System Availability
5. System Maintenance
6. Accuracy of Digital Data Analysis
7. Interpretation of Analysis
8. Fair Use Policy

1. Contact Details for Assistance

Support Team

The purpose of the Customer Support Team is to provide customers with a timely response to technical and application questions concerning the implementation, installation and the day-to-day use of our products. Please also contact them if you have any questions or queries regarding our analysis or reporting. Our automated calling and email facility will log any out of hour's telephone calls and emails for checking and response.

Support times 08:30 – 17:00 Monday to Thursday, and 08:30 – 16:00 on Friday (excludes Bank Holidays.)

Email: support@trutac.co.uk **Tel:** 024 7685 7890

General Contact Details - To contact any other member of the team please use one of the methods below:

Email: info@trutac.co.uk **Sales:** sales@trutac.co.uk
Tel: 024 7669 0000 **Web:** www.trutac.co.uk

Remote Helpdesk Software

To enable us to maintain our high levels of service, TruTac will use Teams, or TeamViewer as a remote assistance solution wherever possible.

2. Software Products Covered by SLA (relevant to licences purchased)

1. TruAnalysis (PSV / CPT products)- Full tachograph management, driver de-briefing, risk scores and automatic compliance reporting (including TruView and TruDriver)
2. TruDocuments and Premium - Online document storage, search and management facility for all paperwork.
3. TruChecks - Daily driver walkaround checking App and back office compliance reporting system.
4. TruTime - Employee clocking via tachograph cards or smart cards, providing clocked versus tacho data.
5. TruLicence - Driving licence validation and verification checking system.
6. TruLocation - Tracking and remote tachograph downloading.
7. TruLinks - Suite of API links for developers to integrate key data between systems.
8. TruFleet and TruWorkshop - Fleet management software for all vehicle maintenance and compliance.
9. TruVan – Van and driver compliance management.
10. TruControl – Portal to access all web based products and Data Capture Application (DCA) to upload data.
11. TruTac Driver App – For Driver relevant information.
12. Channel partners white labelled products - as sold under their brands.

3. Service Level Agreements Table

The service level agreement (described below) defines response and resolution times according to incident categories as shown below. Please note all response times are only relevant to working office hours. Out of hours support and critical cover can be provided at an extra charge, please discuss with your account manager.

Category	Priority Description	Response Target Times (during normal working hours)	Resolutions Target Times (during normal working hours)
A Critical	<ul style="list-style-type: none"> ◆ Inability to access TruTac website due to TruTac's system being down (any software) ◆ Software failure resulting in inability to capture digital tachograph data (DCA) clocking data for TruTime. 	1 Business Hrs	1 Working Day
B High	<ul style="list-style-type: none"> ◆ Hardware failure (if supplied by TruTac) ◆ Inability to transfer digital tachograph files ◆ Inability to collect results (any software) 	4 Business Hrs 4 Business Hrs 4 Business Hrs	3 - 5 Working Days 3 - 5 Working Days 3 - 5 Working Days
C Medium	<ul style="list-style-type: none"> ◆ Report generation (any software) ◆ Non-critical or severe problems and do not affect the basic usage of TruControl ◆ Minor functionality errors ◆ Driver Control Sheet issues 	8 Business Hrs 8 Business Hrs 8 Business Hrs 8 Business Hrs	Within a month as part of a planned release
Enhancement Requests	Enhancement requests will be forwarded to TruTac's Development Department for consideration.	Varied depending on amount of work required	Varied depending on amount of development work required

If an engineer's visit or on-site Training Session is requested a Purchase Order Number must be supplied in advance. The current charges are:

- Engineers Call Out: £200 and Labour p/hr: £200
- Training (User or Manager) (Full or Half Day): Price dependant on attendees, to be agreed with Client
- Mileage (round trip): £0.45 p/mile

4. Performance Statistics and System Availability

- 4.1. Subject to the provisions of the Contract, the licensed TruTac products shall be available to provide the Services to the Customer 99.5% of the time on a 24/7/365 basis and other than planned maintenance.
- 4.2. For the avoidance of doubt TruTac is unable to and does not guarantee service availability in respect of any part of the Services that requires the use of any service (including but without limitation telecommunications and internet service provider services) provided by any third party.
- 4.3. Periods of non-availability that are wholly or partly caused and whether directly by any Force Majeure Event (as covered in 3.5 below) or planned maintenance or by a third party which is outside of the responsibility of TruTac pursuant to the Contract are not included.
- 4.4. All TruTac production servers are backed up daily, overnight using the Azure Recovery Services Vault. The full state of the machines is backed up. The databases are also backed up independently on a nightly basis and stored in globally redundant storage.
- 4.5. *Force Majeure* is based on the Microsoft Azure standard terms - Neither party will be liable for any failure in performance due to causes beyond its reasonable control (such as fire, explosion, power blackout, earthquake, flood, severe storms, strike, embargo, labour disputes, acts of civil or military authority, war, terrorism (including cyber terrorism), acts of God, acts or omissions of Internet traffic carriers, actions or omissions of regulatory or governmental bodies (including the passage of laws or regulations or other acts of government that impact the delivery of Services).

5. System Maintenance

- 5.1. Where planned maintenance is required TruTac will always endeavour to ensure this takes place outside of normal working hours and will provide sufficient notice to the Client.
- 5.2. Unscheduled maintenance performed [outside Normal Business Hours], provided that TruTac has used reasonable endeavours to give the Customer at least [[6] Normal Business Hours] notice in advance.
- 5.3. TruTac will ensure that any unscheduled downtime is kept to the very minimum. TruTac systems are built around multiple site servers in separate secure locations and all data is continuously replicated therefore in the case of a catastrophic incident any disruption would be negligible.

6. Accuracy of Digital Analysis

The quality of TruTac's analysis shall be assessed during annual review meetings. Accuracy of Analysis will be defined as data resulting from digital readings from both the Vehicle Unit and Digital Driver Tachograph card and analysed under relevant EU and domestic legislation as required.

7. Interpretation of Analysis

- 7.1. TruTac's digital data analysis KPI is expected to be 99.9% correct. If an incorrect Hours Law or RTD Infringement is caused by a wrong interpretation of the correct data, the client would be notified immediately and data re-run to correct the mistake and correct reports supplied.
- 7.2. Interpretation of Analysis and the governing legislation can occasionally be subjective. In the case of a disagreement on the correct analysis outcome, TruTac will take 3 reasonable remedial steps;
 - 1 – Run the data file through the DVSA software and analysis the results
 - 2 – Gain clarification from the DVSA
 - 3 - Engage a Transport Law specialist for a professional opinion
- 7.3. If the interpretation of TruTac can be said, by a mutually recognised reasonable expert, to be defensible even if that expert or others do not agree with TruTac's interpretation then TruTac's interpretation shall not count as a fault. Client may require the interpretation to change in the future, but this would be subject to discussion. TruTac may need to refuse or reserve its rights in such a case.
- 7.4. If any such software interpretation or proven bug can reasonably be thought to have legal implications that expose Client to actual risk and that this risk can only be mitigated by re-analysis of data then TruTac shall, without charge, re-analyse the files which TruTac processed during the time prior to the error being identified sufficient to achieve mitigation of any risk.
- 7.5 In extraordinary situations which might require more than re-analysis a mutually agreeable reasonable solution shall be negotiated.

8. TruTac Fair Use Policy

This TruTac Fair Use Policy ("Fair Use Policy") is also part of these TruTac Terms and Conditions and SLA (Appendix B), which are also available at a successor URL <https://www.trutac.co.uk/wp-content/uploads/2023/04/TruTac-TCs-SLA-2023-Jan.pdf> (the "Agreement") entered into between you ("Customer") and TruTac Limited ("Supplier" or "TruTac"). The Supplier (TruTac) provides various Services including multi-tenanted SaaS solutions. This fair use policy seeks to ensure an optimal, as well as fair, user and support experience. The Supplier is committed to an up-front, simple and transparent subscription pricing model. Please read the fair use policy terms to ensure they meet your requirements. Alternatively, we may discuss with you alternative options for managing your operational needs.

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