

## Terms of use

This website is provided and maintained by MatBlas Limited ("MatBlas", "We", "Us"), registered in England and Wales under company registration number 6182887, VAT registration number 919 2518 12 and registered office at 16 Beaufort Court, Admirals Way, Canary Wharf, London E14 9XL. The use of the website <https://www.smart-reinsurance.com> ("the website") is subject to the following terms and conditions, which you deem to accept by using the website.

You warrant that you will only use the website in accordance with these terms of use together with the licence or trial licence agreement in place between your organisation and MatBlas Limited, only for lawful purposes and in a lawful manner. You also warrant that you have gained access to this website in a lawful manner through a licence or a trial licence agreement and that the login information has been given to you by us to access the application as part of your professional duties within your organisation.

### 1. General

1.1 The terms and conditions contained in this legal notice shall be governed by English law, regardless of how and where you access the website. Any dispute arising between you and us in relation to the website shall be governed by English law.

1.2 A person who is not a party of a signed licence or trial licence agreement may not enforce any of the terms of use under the Contracts (Rights of Third Parties) Act 1999.

### 2. Definitions

**Authorised Users** means those individuals authorised to access and use the functionality in the Software as specified in the Term Sheet.

**Business Hours** means the Supplier's standard business hours in London 9am to 6pm.

**Claim** is defined in Clause 10.3.

**Confidential Information** means information in any form (including, but not limited to, models, software and computer outputs) whether written or oral, of a business, financial or technical nature which is marked or otherwise indicated as being or is, or ought reasonably to be, known to be confidential and which is disclosed by the Supplier or Client (the **Disclosing Party**) to the other (the **Receiving Party**) through their dealings with each other.

**Contract Period** means the period of time agreed in the signed licence or trial licence agreement.

**Documentation** means the standard written material in machine readable or printed form made available by the Supplier to the Client from time to time, that describes the functions, operation and/or use of the Software.

**Password** means an access code provided to the Client by the Supplier to allow an Authorised User to access and use the Software.

**Planned Downtime** means any time when the Client's access and/or use of the Software is unavailable due to the planned action of the Supplier or any of its sub-contractors.

**Software** means the software as detailed in the licence or the trial licence agreement.

**Support Services** means those support services to be provided by the Supplier to the Client as set out in the licence or trial licence agreement.

**Support Services Fees** means any fees payable by Client for the Support Services as set out in the licence or trial licence agreement.

**Unplanned Downtime** means any time in which the Client is unable to use or access the Software and which is not Planned Downtime or caused by any act or omission of the Client or an urgent need of the Supplier to carry out maintenance or emergency measures in respect of its systems.

**Virus** means any code or device which is designed or intended to impair the operation of any computer or database or prevent or hinder access to, or the operation of, any program or data (whether by altering, erasing, duplicating or rearranging within the computer or any storage medium or device, the program or data in whole or part, or otherwise), including computer viruses, worms, trojan horses and other similar things.

### 3. Licences

3.1 Subject to Clauses 3.2 and 10, the Supplier grants to Client a non-transferable, non-assignable, non-exclusive licence or trial licence for the duration of the signed Agreement for the Authorised Users to access and use solely for Client's own internal business purposes the Software and the Documentation via the following website: <https://www.smart-reinsurance.com>.

3.2 Licence Limitations. The licence granted under this Clause 3 will be subject to the following limitations:

- a) Client shall at all times access and use the Software solely in accordance with the Documentation provided to the Client by the Supplier from time to time;
- b) Client will in no circumstances use the Software or the Documentation in any way for or in connection with any illegal or immoral purposes. Breach of this licence limitation by the Client shall be deemed to be unremediable and shall entitle the Supplier to terminate their signed Agreement immediately upon notice in accordance with Clause 9.2(a);
- c) Client will only allow access to and use of the Software during the term of their signed Agreement by the Authorised Individual(s);

d) Client shall only use the Documentation to the extent required to access and use the Software, and shall not copy or otherwise reproduce any part of the Documentation without the prior written consent of the Supplier;

e) where an Authorised User is not an officer or employee of the Client, any access or use of the Software by that Authorised User must be supervised by an Authorised User who is an officer or employee of the Client, and such access and use may only be effected through use of the Client's IT systems at the Client's premises;

f) Client will not, nor attempt to, make copies of, reverse engineer, alter, disassemble or decompile the Software or the source code contained in the Software, either in whole or in part, in any way except to the extent permitted by laws implementing Article 6 of Council Directive 91/250/EEC; and

g) Client will only allow Authorised Users to access and use the Software who have undergone the relevant training provided by MatBlas on access and use of the Software.

#### **4. Passwords**

4.1 The Supplier shall allocate Passwords to the Client to allow the Authorised Users to access and use the Software.

4.2 Passwords are personal to individual Authorised Users that they are allocated to, and are Confidential Information of the Supplier, and accordingly the Client and the Authorised Users shall safeguard the Passwords against unauthorised disclosure in accordance with clause 16.

4.3 The Client shall:

(a) use the Passwords in accordance with the reasonable instructions of the Supplier;

(b) ensure that personal Passwords are not disclosed to any person other than to the person to which a particular Password is allocated without the prior written consent of the Supplier;

(c) notify the Supplier when any Authorised Users no longer need Passwords (including on retirement, dismissal or other absence); and

(d) notify the Supplier where the Client believes that any unauthorised person has had access to, or is making use of, the Passwords without the permission of the Supplier.

4.4 The Supplier may withdraw or change any Password if the Supplier reasonably believes that the Passwords have been disclosed to, or used by, an unauthorised person.

4.5 Where the Supplier becomes aware of any use of any Password not in accordance with this clause 4, the Supplier shall be entitled to invoice the Client for a suitable sum (as determined by the Supplier in its reasonable discretion) by way of additional Licence Fees in respect of such unauthorised use.

#### **5. Client Responsibilities**

5.1 The Client acknowledges and agrees that any output of the Software as a result of the Client's use and access is fundamentally based on assumptions and estimates, and that therefore not all outputs can be 100% correct. Accordingly, the Client acknowledges the disclaimer of warranties by the Supplier in Clause 10.2 below.

5.2 The Client acknowledges and agrees that it is the responsibility of the Client to ensure that the systems used by the Authorised Users to access and use the Software, and their method of access and use, shall be the sole responsibility of the Client, including compliance by the Authorised Users with any internal security and other policies of the Client and/or the quality and speed of any connection to the Software and/or the compatibility of the Software with the Client's systems.

5.3 The Client shall ensure that any access and use of the Software by its Authorised Personnel shall be carried out only over telecommunications links and networks which comply with the security requirements set out in the Documentation, and that any computer terminal from which the Software is accessed and used has been scanned for Viruses using up-to-date and commercially accepted virus checking software.

5.4 The Client further acknowledges and agrees that it has the sole responsibility for procuring all rights and licences necessary for the Client to be able to use and access all third party intellectual property which it wishes to use in combination with its use and access of the Software.

5.5 Where the Client creates any spreadsheet or other material or information to be inputted into the Software to facilitate the Client's access and use, the Client shall, following such input, during the Term keep copies of and back up such spreadsheets and other materials and information.

#### **6. Availability and Downtime**

6.1 The Supplier shall use its reasonable endeavours to ensure that the availability (i.e. total time during the period less Unplanned Downtime) of the Software for access and use by the Client shall be not less than 99.9% in any consecutive 1 month period during each Contract Year

6.2 The Supplier shall where reasonably practicable provide reasonable prior notice of any Planned Downtime. Any such Planned Downtime shall, where possible, be carried out outside of Business Hours.

6.3 In the event of any Unplanned Downtime, the Supplier shall use its reasonable endeavours to promptly notify the Client of such Unplanned Downtime, and where possible shall provide an estimate of the foreseeable duration of such Unplanned Downtime.

## 7. Support Services

7.1 The Supplier will provide the Support Services as described in the licence or trial licence agreement.

7.2 Support Services will be carried out during Business Hours unless stated otherwise on the licence or trial licence agreement.

7.3 In addition to the Support Services Fees, Client will reimburse the Supplier for all expenses related to the performance of the Support Services, including (without limitation) actual charges for third-party materials, travel expenses and other reasonable out-of-pocket expenses, as agreed in the licence or trial licence agreement.

## 8. Title

8.1 Client acknowledges that the only rights it has to the Software are non-exclusive rights under licence to access and use the Software.

8.2 Client agrees not to use the Software other than as licensed under this Agreement.

8.3 Client agrees that all intellectual property rights in any deliverables developed by or on behalf of the Supplier under this Agreement are and will remain the property of the Supplier or its licensors (and accordingly shall be deemed to form a part of the Software).

## 9. Duration and Termination

9.1 Term. Unless terminated in accordance with the terms of the licence or trial licence Agreement, this Agreement and the licence granted under it will remain in effect for an initial Contract Year. Thereafter, this Agreement and the licence granted under it shall (subject to payment of Licence Fees in respect of each successive Contract Year) remain in force for successive Contract Years unless either party gives written notice of cancellation at least 90 days' prior to the end of the then current Contract Year.

9.2 Termination. Either party may terminate this Agreement by notice in writing to the other party if the other party:

- a) commits a material breach of this Agreement which is incapable of remedy, in which case termination will be effective immediately on giving notice;
- b) commits a material breach of this Agreement, which has not been remedied within 30 days after giving notice, in which case termination will be effective at the end of the 30 day notice period;

c) makes an assignment for the benefit of its creditors, files or has filed against it a petition under any bankruptcy, insolvency, reorganisation or similar law, appoints or has appointed against it a trustee or receiver for any of its property or commences or has commenced against it (by resolution or otherwise) the liquidation or winding-up of its affairs, in which case termination will be effective immediately on giving notice.

9.3 Termination or Suspension for non-payment. In addition to the Supplier's rights pursuant to Clauses 10.2 and 10.4, the Supplier may terminate this Agreement or suspend the Client's right to access and/or use the

Software hereunder at any time on notice to Client if any sums owed to the Supplier by Client remain unpaid for 30 days or more beyond the date that such sums fall due.

9.4 Termination or Suspension for Licence or Password Breach. In addition to the Supplier's rights pursuant to Clauses 9.2 and 9.4, the Supplier may terminate this Agreement or suspend the Client's right to access and/or use the Software hereunder with immediate effect if Client commits any breach of Clauses 4 and/or 5.

9.5 Obligations upon Termination. Upon termination or expiry of the licence or trial licence Agreement Client will immediately return, delete or destroy all Software, as the Supplier directs.

9.6 Survival. The respective rights and obligations of the parties under the licence or trial licence agreement will survive upon termination of the licence or trial licence agreement as set out therein.

## 10 Warranties and Indemnities

10.1 Software Warranty. The Supplier will use reasonable endeavours to ensure that the Software is scanned for Viruses using generally available anti-virus protection and shall ensure where possible that the Client is prevented access to the Software if the Software ever fails any Virus scan until any Viruses are removed or rectified.

10.2 Disclaimer of Warranties. Except as expressly set out in this Agreement, the Supplier gives no other warranties with respect to the Software or to the services and/or any other deliverable provided under this Agreement. The Supplier and its suppliers make no warranty or representation that the Software will meet Client's requirements, that the Software will be error free or run without interruption or that the Client's access and/or use of the Software in any jurisdiction other than the United Kingdom will not infringe any local law or regulation. The Supplier and its suppliers make and Client receives no other warranties whether express, implied, statutory, or otherwise arising from course of dealing or usage of trade.

### 10.3 Intellectual Property Indemnity.

a) Subject to Clauses 10.5 and 11, the Supplier will defend, indemnify and hold Client (and its officers, directors, agents and employees) harmless from and against any final court award/judgment in respect of any claim by a third party against the Client (a **Claim**) that the Software owned by the Supplier infringes any: (i) valid copyright or trade mark of any third party; or (ii) valid patent that, as at the date of this Agreement, is duly issued in the United Kingdom.

b) The indemnity in Clause 10.3(a) above will not extend to any Claim of infringement arising out of or related to: (i) a modification of the Software by anyone other than the Supplier or its nominated contractor; (ii) the combination, operation or use of the Software with any third party software, data or other intellectual property of a third party; or (iii) information, technology or materials

provided by Client or which arises out of conformance with specifications provided by Client.

c) Upon notice of a Claim (or if in the Supplier's reasonable opinion a Claim is likely) the Supplier will have the right, at its option, to: (i) obtain for Client the right to continue using the Software; (ii) substitute other software with substantially similar operating capabilities; or (iii) modify the Software so it is no longer infringing. If the Supplier determines that none of the foregoing remedies are reasonably available, the Supplier may terminate this Agreement in respect of the infringing Software and refund to Client the Licence Fees paid for the Software and attributable to the remainder of the then current Contract Year (i.e. depreciated on a straight-line basis over the Contract Year), in which event, Client will immediately cease use of the Software.

d) This Clause 10.3 states the Supplier's entire liability and Client's exclusive remedies with respect to the infringement of any intellectual property rights by the Software.

10.4 **Client Indemnity.** Subject to Clause 10.5, Client will defend, indemnify and hold the Supplier (and its officers, directors, agents and employees) harmless from and against any claim which arises or results from any claim brought by a third party against the Supplier related to or arising out of Client's access to and/or use of the Software and/or receipt of services or other deliverables hereunder (including without limitation any claim by any third party licensor of any data used by the Client in conjunction with the Software).

10.5 Any obligation on one party (the **Indemnifying Party**) to indemnify the other party (the **Indemnified Party**) shall only apply if:

a) the Indemnifying Party is promptly notified in writing of the claim and is granted the exclusive right to control the defence and/or settlement of the claim (provided that the Indemnifying Party shall not agree to any settlement which imposes a continuing or non-monetary obligation on the Indemnified Party without the Indemnified Party's prior written consent, such consent not to be unreasonably withheld or delayed);

b) the Indemnified Party provides reasonable assistance (at the Indemnifying Party's expense and request) in the defence and/or settlement of the claim; and

c) the Indemnified Party does not settle any claim, lawsuit or proceeding or make any admission or provide any information to any person that may prejudice or otherwise affect the Indemnifying Party's position without the Indemnifying Party's prior written approval.

## 11. Liability

11.1 Nothing in this Agreement limits or restricts either party's liability to the other for death or personal injury caused by its negligence.

11.2 Total aggregate liability for losses suffered by the Client will be subject to the Liability clauses and definitions set out in the signed licence or trial licence agreement.

## 12. Data Protection

12.1 Where as part of the performance of the Supplier's obligations under this Agreement the Supplier processes personal data (as that term is defined in the Data Protection Act 1998) on behalf of the Client, the Supplier shall:

(a) act only on instructions from the Client in relation to such processing;

(b) not transmit such personal data to a country or territory outside the European Economic Area without the Client's prior written consent; and

(c) take appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of or damage to personal data (including by ensuring that any personal data held on mobile or portable devices is encrypted using encryption software meeting then current standards).

12.2 The Supplier and the Client acknowledge and agree that the Client shall not be required by the Supplier (or by virtue of operation of the Software) to upload personal data onto the Software. Accordingly, where the Client uploads any such personal data, the Client shall indemnify the Supplier against any loss, liability, cost or expense incurred by the Supplier to the extent arising in connection with such personal data.

## 13. Governing Law and Jurisdiction

13.1 This Agreement and any non-contractual obligations arising out of it shall be governed by English law. In relation to any legal action or proceedings arising out of or in connection with this Agreement (whether contractual or non-contractual), each of the parties irrevocably submits to the exclusive jurisdiction of the English courts.

## 14. Third Party Rights

14.1 No person who is not a party to this Agreement shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

## 15. Confidentiality

15.1 The Supplier and Client each agree:

a) to hold the Confidential Information in confidence and not, without the Disclosing Party's prior written consent, to disclose any part of it to any person other than those directly concerned with the Supplier and Client's dealings with each other and whose knowledge of such Confidential Information is essential for such dealings. The Receiving Party will ensure that those persons comply with the obligations imposed on the Receiving Party under this clause and will be liable for any default;

b) not, without the Disclosing Party's prior written consent, to use the Confidential Information for any purpose other than in their dealings with each other;

c) to delete the Confidential Information from any device and/or return all Confidential Information to the Disclosing Party upon demand and certify that it does not retain the other party's Confidential Information, and in any case upon termination of this Agreement, except for one copy of such Confidential Information as is required to be retained by law, regulation, professional standards or reasonable business practice by the Receiving Party; and

d) to use reasonable endeavours to provide the Disclosing Party with prompt notice if the Receiving Party becomes legally compelled to disclose any of the Confidential Information, so that the Disclosing Party may seek a protective order or other appropriate remedy. If such order or remedy is not available in time, the obligation of confidentiality will be waived to the extent necessary to comply with the law.

16.2 This obligation of confidentiality will not apply to information which: (a) is, at the time of the disclosure, or subsequently through no act or omission of the Receiving Party becomes, generally available to the public; (b) becomes rightfully known to the Receiving Party through a third party with no obligation of confidentiality; (c) the Receiving Party is able to prove was lawfully in the possession of the Receiving Party prior to such disclosure; or (d) is independently developed by the Receiving Party.

## 16. Notices

16.1 All notices under these terms of use and the licence or trial licence agreement will be sent in accordance to the licence or trial licence agreement.

16.2 Notices will be deemed to be received 3 business days after being sent or on proof of delivery, if earlier.

## 17. General

17.1 Assignment. Neither party may transfer any of its rights or obligations under this Agreement without the prior written consent of the other party, which consent will not be unreasonably withheld or delayed (provided that the Supplier shall be entitled to transfer any or all of its rights and obligations under this Agreement to a group company

of the Supplier or to the purchase of the whole or a substantial part of the Supplier's assets without the Client's consent). This Clause 18.1 will not be construed as limiting the Supplier's right to use subcontractors to carry out any of its obligations under this Agreement. The Supplier will remain liable for any failure by a subcontractor of the Supplier to comply with the terms of this Agreement on the Supplier's behalf.

17.2 Entire Agreement; Amendment. This Agreement constitutes the entire understanding between the parties regarding its subject matter and supersedes all proposals and other representations, statements, negotiations and undertakings, in each case, verbal or written, relating to such subject matter. In entering this Agreement, neither party has relied on, and will have no remedy in respect of, any statement, warranty or representation (except in the case of fraud) made by the other save as set out in this Agreement. No change in, addition to, or waiver of any provision of this Agreement will be binding upon either party unless in writing and signed by an authorised representative of such party.

17.3 Severability. If any provision of this Agreement shall be held to be illegal, invalid or unenforceable under the law of any jurisdiction, the legality, validity and enforceability of the remainder of this Agreement in that jurisdiction shall not be affected and the legality, validity and unenforceability of this Agreement in any other jurisdiction shall not be affected.

17.4 Waiver. Subject to Clause 11.5, if either party delays or fails to exercise any right or remedy under this Agreement, that party will not be deemed to have waived that right or remedy or any other right or remedy on any other occasion.

17.5 Force Majeure. Neither party will be held liable for any loss or failure to perform any obligation (other than a payment obligation) due to circumstances beyond its reasonable control. Should such circumstances and their effect on the performance of obligations hereunder continue for more than 3 months, either party may terminate this Agreement immediately by notice in writing to the other party.