

IMPORTANT. PLEASE READ BEFORE ACCESSING ANY ARQIT PRODUCTS OR SERVICES.

Arqit End User License Agreement (EULA)

ARQIT PROVIDES THE PRODUCTS AND SERVICES SOLELY ON THE TERMS AND CONDITIONS SET OUT IN THIS EULA AND ON THE CONDITION THAT YOU ACCEPT AND COMPLY WITH THEM.

YOU HAVE NO RIGHT TO USE OR ACCESS ARQIT'S PRODUCTS OR SERVICES UNLESS YOU HAVE BEEN GRANTED ACCESS BY ARQIT (EITHER DIRECTLY OR THROUGH AN AUTHORISED RESELLER) AS EVIDENCED BY EITHER (I) EXECUTION OF AN ORDER OR SIMILAR BINDING ARRANGEMENT; AND/OR (II) BY CLICKING THE "ACCEPT" BUTTON PRIOR TO ACCESSING ANY SOFTWARE AND/OR (III) BY ACCESSING OR USING THE ARQIT PRODUCTS OR SERVICES.

BY EXECUTING AN ORDER (OR ENTERING INTO A SIMILAR BINDING ARRANGEMENT) WITH ARQIT OR THE AUTHORISED RESELLER, YOU REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, POWER AND AUTHORITY TO ENTER INTO THE ORDER AND ACCEPT THIS EULA AND BIND THE PERSONS NAMED THEREIN AND THEIR AFFILIATES TO THESE TERMS AND CONDITIONS.

PART A: GENERAL TERMS

1. SCOPE OF AGREEMENT

- 1.1. This EULA is made between Arqit and the End User that licenses the right to access and/or use the Products and Services, either (i) directly from Arqit, or (ii) indirectly through Authorised Resellers, in each case solely for its own Use and not for resale. The applicable sections below govern the licensing and/or Use of the Arqit Products and Service and shall take precedence over any other conflicting terms and conditions.
- 1.2. Application of the various sections of this EULA is as follows:
 - (a) **PART A: (General Terms)** sets out the general terms and conditions that apply to all Arqit Products and Services;
 - (b) **PART B: (Arqit Products License Terms and Conditions)** sets out the rights granted to End User to Use the Arqit Products and Documentation, including any Software rights and restrictions and other general terms relating to the Arqit Products and Software contained therein;
 - (c) **PART C: (Maintenance and Support Services)** sets out the terms relevant to the supply of any Software Maintenance and Support Services, other limited support services and notifications for End of Support and End of Service of Software;
 - (d) **Part D (Definitions and Interpretation)** sets out the defined terms and rules of interpretation that apply to and are used throughout the EULA; and
 - (e) **Part E (Country Specific Terms):** sets out any country specific terms that modify or replace the relevant sections of this EULA in the stated territory/ies.

2. END USER RESPONSIBILITIES

- 2.1. End User is responsible for and liable for all Use of the Products and Documentation by any persons (including any Users) that have gained access to them as a result of access being granted to the End User pursuant to this EULA. End User will: (i) require its Users' compliance with this EULA; (ii) be solely responsible for the accuracy, quality, integrity and legality of the User Data and of the means by which the End User acquired the User Data; (iii) prevent unauthorised Use of the Products, and notify Arqit promptly both orally and in writing of any such unauthorised Use; (iv) Use the Products only in accordance with this EULA and the Order, the Documentation and Applicable Laws; (v) obtain any and all third party consents necessary for the use and processing of the User Data in connection with Products and Services; (vi) Use the Products and Services with only appropriately licensed and/or Arqit approved Third Party software and technology. End User shall be responsible for the accuracy and completeness of the information the End User provides to Arqit or the Authorised Reseller (as applicable).
- 2.2. End User shall not: (i) authorise or allow any person's or entity's direct or indirect access to the Products (or any part of the Products) other than a User or Users acting for End User's sole benefit in furtherance of End User's business operations; (ii) Use the Products with Third Party products other than those for which the Products were purchased or otherwise intended to be used with the Products, as stated in any of the applicable Documentation or Order; (iii) interfere with or disrupt the integrity or performance of the Products or Third-Party data contained therein; (iv) attempt to gain unauthorised access to the Products or their related systems or networks; (vii) permit any third party to access the Products except as permitted herein. Arqit reserves the right, without liability, to disable End User's access to the Products and cease provision of the Services in the event of any breach by End User or its Users or anyone acting on End User's behalf, of the provisions set forth in this subsection.
- 2.3. Network Connection. Where necessary to receive or Use the Product or for Arqit to provide the Services, End User shall be solely responsible for procuring and maintaining any necessary network connections and telecommunication links from its or a Third Party's applicable systems to Arqit's or Arqit's Third-Party servers from which the Products and Documentation are accessed or as required as part of provision of the Services. End User shall be solely liable for problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the provision of network connections or telecommunications links, or internet connection pursuant to this subsection.
- 2.4. Passwords. End User may be provided with a password to access the Products and/or Services. End User will keep confidential and not disclose to any third parties any user identifications, passwords or account detail. End User will have sole responsibility for maintaining the confidentiality of and preventing the unauthorised use of any passwords to access or Use of the Products and/or Services and for preventing any unauthorised access to the Products from or through the End User's account.

3. SUSPENSION OF SERVICES AND TERMINATION

- 3.1. Products and Services are licensed and supplied (as applicable) for the periods stated in the Transaction Document and PART B: and PART C: of this EULA below.
- 3.2. Termination for Breach. If either party breaches a provision of this EULA and, where such breach is capable of remedy, fails to cure such breach within 30 days after receiving written notice of the breach from the other party, then the non-breaching party shall have the right to terminate this EULA and the Order at any time; provided if a breach cannot be cured within 30 days but is capable of cure, the breaching party shall not be in default if, within 30 days of receiving notice of breach, in good faith, it begins and continues to attempt to cure the breach. In such case, the breaching party shall have a reasonable time to cure the breach before being in default (but no more than 60 days from the date of receipt of the notice under this Section). Without prejudice to any other right or remedy that Arqit may be entitled to, Arqit shall be entitled to all such sums as are due in accordance with the Order for the delivered Products and/or Services, as well as Products and Services performed and rendered up to the date of termination, such sums due and payable in accordance with the Agreement.
- 3.3. Services Suspension and Termination Rights. Arqit may suspend any unpaid Products and/or Services with fourteen (14) days' notice to End User. Where the End User continues to be in payment default, Arqit may in addition to any other remedy, terminate the license and supply of those Products and/or Services with or without notice to End User or limit access to the Products or reduce functionality in such case, Arqit will have no liability for ceasing Use, access or reduced functionality of such Products or Services.
- 3.4. Bankruptcy Events. Arqit may immediately terminate any Product license and/or supply of a Service if End User: (a) has a receiver appointed over it or over any part of its undertakings or assets; (b) passes a resolution for winding up (other than for a bona fide scheme of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect and such order is not discharged or stayed within ninety (90) days; or (c) makes a general assignment for the benefit of its creditors; or (d) anything analogous to any of the events in items (a) to (c) occurs in relation to End User under Applicable Law.

- 3.5. Survival of Provisions. Termination of a Transaction Document or the Agreement for any reason shall not relieve the End User of its obligation to pay the applicable Fees. Termination of a Transaction Document or the Agreement for any reason shall not relieve the Customer of its obligation to pay the applicable Fees. The following Sections shall remain in force notwithstanding termination or expiry of a Transaction Document or the Agreement: Sections 3.2, this Section 3.5, 4 (Intellectual Property), 5 (Data Protection), 6 (Export Regulations), the applicable subsections of Section 7 (Miscellaneous), and Part D (Definitions) together with any other provision which is expressly or by implication intended to come into or continue in force on or after termination.

4. INTELLECTUAL PROPERTY

- 4.1. The license(s) granted to End User under this EULA shall at all times be subject to compliance with the terms and conditions of this EULA.
- 4.2. The End User acknowledges and agrees (on behalf of itself and any User) that the Products, Services and Documentation are provided under license, and not sold, to the End User or a User. Neither End User (nor any User) acquires any ownership or any other interest in and/or to the Products, Services and/or Documentation under this EULA or the Agreement, or any other rights thereto, other than to Use the same in accordance with and subject to all terms and conditions in this EULA. Arqit (or any Third Party providing any part of the Products or ability to Use the Services) reserves and shall retain its (or their) entire right, title, and interest in and to the Products and/or Services and all Intellectual Property Rights except as expressly granted to End User as set out in this EULA. End User shall (and shall procure that the Users shall) safeguard all Software and Documentation (including all copies thereof) from infringement, misappropriation, theft, misuse, or unauthorised access. End User shall promptly notify Arqit if End User becomes aware of any IP Claim and will fully cooperate with Arqit, at Arqit's (or the relevant Third Party's) sole expense, in any legal action taken by Arqit or any Third Party to enforce its (or their) Intellectual Property Rights.
- 4.3. Remedy. Should a Product (or any part thereof) become, or in Arqit's opinion, be likely to become the subject of an IP Claim (as defined below), Arqit, at its option, may either: (i) procure for End User the right to continue using the Product (or part thereof), or (ii) replace or modify the allegedly infringing item to make it non-infringing provided material functionality is maintained. If, in Arqit's sole opinion, neither of the foregoing alternatives is commercially reasonable or commercially viable, Arqit shall be entitled to terminate the relevant Product and any related any related Maintenance Services (in respect of Products subject to a Perpetual License) on written notice (which may be by email or communicated via the Authorised Reseller), whereupon the right to Use the relevant Product and/or Service will terminate and End User shall be entitled to a pro rata refund of the Subscription price (in respect of Subscription Products) or pro rata portion of the License Fee and any corresponding pro rata portion of any Maintenance Fee (in respect of Products subject to a Perpetual License and the corresponding Maintenance Contract (if any)) actually paid by End User and received by Arqit for the relevant Products and/or Services not yet received or Used by End User as at the date of termination.
- 4.4. Arqit Indemnity. Arqit shall defend and indemnify End User against any Third-Party claim that Arqit proprietary intellectual property in the Products or Documentation as supplied by Arqit infringes or alleges to infringe or misappropriate a Third Party's patent, copyright or other intellectual property right ("**IP Claim**").
- 4.5. End User Indemnity. End User shall defend and indemnify Arqit and its Affiliates against any IP Claim which is based, in whole or in part, arising out of End User's or any User's Use of the Arqit Products in breach of the Agreement.
- 4.6. Arqit shall, in its absolute discretion, determine what action if any shall be taken in respect of any IP Claim for which it is required to indemnify End User under this Section. The indemnities under this Section are strictly subject to: (a) End User giving prompt notice to Arqit of any such IP Claim; and (b) End User providing all reasonable assistance and co-operation to Arqit in the defence and settlement of such IP Claim, at Arqit's expense; and (c) Arqit being given sole authority to defend or settle the IP Claim.
- 4.7. Exclusions. Arqit shall have no obligation or liability in respect of the indemnities given in this EULA for, and End User shall indemnify Arqit and its Affiliates against, any IP Claim which is based, in whole or in part, upon (i) the combination, operation or use of the Products with any hardware, software or service supplied by a party (including a Third Party) other than Arqit; (ii) any alteration or modification of the Products or Documentation which is not pre-approved by Arqit in writing; (iii) any specifications, designs or instructions provided to Arqit by or on behalf of End User or its Authorised Reseller; (v) End User's failure to promptly implement an update or modification to the Products (e.g., Updates or Software Releases) provided by Arqit; or (vi) use of the Products in a manner other than as specified by Arqit or any continued Use of the relevant Product in contravention of this EULA; or (vii) any circumstance for which End User or Authorised Reseller is obligated to indemnify any indemnitee. Arqit shall not be obligated or responsible for any settlement entered into or damages arising from admissions by End User or any Authorised Reseller without Arqit's prior written consent.

- 4.8. WARRANTY DISCLAIMER. EXCEPT AS EXPRESSLY SET FORTH IN THE THIS EULA, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PRODUCTS, SERVICES AND DOCUMENTATION ARE PROVIDED TO THE END USER "AS IS" AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, ARQIT, ON ITS OWN BEHALF AND ON BEHALF OF ITS AFFILIATES AND ITS AND THEIR RESPECTIVE THIRD PARTY LICENSORS AND SERVICE PROVIDERS, EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE PRODUCTS, SERVICES AND/OR DOCUMENTATION, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE, OR TRADE PRACTICE. WITHOUT LIMITATION TO THE FOREGOING, ARQIT PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE PRODUCTS, DOCUMENTATION OR SERVICES WILL MEET THE END USER'S REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE, OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS, OR SERVICES, OPERATE WITHOUT INTERRUPTION, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS OR BE ERROR FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED. SECTION 4.10 BELOW SHALL APPLY TO THE IP CLAIM INDEMNITIES GIVEN UNDER THIS SECTION.
- 4.9. THE REMEDIES SET FORTH IN THIS SECTION STATE ARQIT'S ENTIRE LIABILITY AND OBLIGATION AND CUSTOMER'S SOLE REMEDY FOR IP CLAIMS.
- 4.10. LIMITATION OF LIABILITY. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL ARQIT OR ITS AFFILIATES, OR ANY OF ITS OR THEIR RESPECTIVE THIRD PARTY LICENSORS OR SERVICE PROVIDERS, BE LIABLE TO END USER OR USER OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES INCLUDING, WIHTOUT LIMITING THE FOREGOING, FOR: (A) USE, INTERRUPTION, DELAY, OR INABILITY TO USE THE SOFTWARE; (B) LOST REVENUES OR PROFITS; (C) LOSS OF SERVICES, BUSINESS, OR GOODWILL; (D) LOSS OR CORRUPTION OF DATA OR INACCURACY OF DATA SUPPLIED TO IT; (E) LOSS RESULTING FROM SYSTEM OR SYSTEM SERVICE FAILURE, MALFUNCTION, OR SHUTDOWN; (F) FAILURE TO ACCURATELY TRANSFER, READ, OR TRANSMIT INFORMATION; (G) FAILURE TO UPDATE OR PROVIDE CORRECT INFORMATION; (H) SYSTEM INCOMPATIBILITY OR PROVISION OF INCORRECT COMPATIBILITY INFORMATION; OR (I) BREACHES IN SYSTEM SECURITY, IN EACH CASE WHETHER OR NOT ARISING OUT OF OR IN CONNECTION WITH THIS EULA OR THE AGREEMENT, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT ARQIT WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITHOUT LIMITATION TO THE FOREGOING, ARQIT PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE PRODUCTS, SERVICES AND ANY DELIVERABLES WILL MEET THE END USER'S REQUIREMENTS OR ACHIEVE ANY INTENDED RESULTS OTHER THAN AS SET OUT IN THE DOCUMENTATION.
- 4.11. THE TOTAL LIABILITY OF ARQIT AND ITS AFFILIATES UNDER OR IN CONNECTION WITH AN IP CLAIM SHALL NOT EXCEED AN AMOUNT EQUAL TO THE TOTAL FEES ACTUALLY PAID BY END USER TO ARQIT OR THE AUTHORISED RESELLER UNDER THE APPLICABLE TRANSACTION DOCUMENT TO WHICH THE IP CLAIM RELATES. THE LIMITS OF LIABILITY IN THIS SUBSECTION ARE CUMULATIVE AND NOT PER-INCIDENT. THE FOREGOING SHALL NOT SEEK TO EXCLUDE OR LIMIT ARQIT'S LIABILITY FOR: (A) DEATH OR PERSONAL INJURY OR LOSS OR DAMAGE FOR WHICH LIABILITY CANNOT BE LIMITED OR EXCLUDED BY LAW; OR (B) FRAUD OR FRAUDULENT MISREPRESENTATION; OR (C) ANY OTHER LIABILITY THAT CANNOT BE LIMITED UNDER APPLICABLE LAW.
- 4.12. Use of Third-Party Software / Products / Applicable Terms. For non-Arqit branded products and/or services delivered in connection with Arqit's Products and/or Services, such Third-Party products and/or services shall be separately governed and licensed by the applicable Third-Party product and/or services terms and conditions. Such Third-Party terms and conditions shall supersede the terms of this EULA for non-Arqit branded products and/or services or as otherwise stated in any Software. For the avoidance of doubt, the Third-Party supplier of non-Arqit branded products and services or Third Party licensor of Software shall be solely responsible for support, warranties, indemnities and other terms and conditions applicable to such products and services. To the extent that Arqit has embedded any Third-Party software or components in any Arqit Products or they form any part of the Services, that Third Party licensor may enforce its license rights against End User. Any breach of any Third-Party licenses shall also be a breach of this EULA.

5. DATA PROTECTION

- 5.1. In connection with End User's Use of the Products and Services:
- (a) End User acknowledges that Arqit may, directly or indirectly through the services of Third Parties, collect and store information regarding use of the Products and Services and about equipment on which any Software is installed or through which it otherwise is Used.

- (b) End User agrees that Arqit may use such information for any purpose related to any use of the Products and Services by the End User or on the End User's equipment, including but not limited to: (i) improving the performance of the Products and Services or developing Updates; and (ii) verifying the End User's compliance with the terms of this Agreement and enforcing Arqit's rights, including all Intellectual Property Rights in and to the Products, Services and Documentation.

Please refer to Arqit's Privacy Notice for further information at arqit.uk/privacy-policy.

- 5.2. Arqit shall be entitled to permanently erase any User Data including any passwords and/or other information associated with the End User account, where End User's account is delinquent, suspended or terminated for thirty (30) days or more.

6. EXPORT REGULATION

- 6.1. The Products, Software and/or Documentation (collectively "**Controlled Item**") may be subject to UK and/or US export control laws or other export control laws. End User shall not, directly or indirectly, export, re-export, or release the Controlled Items to, or make them accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation or use the Controlled Items for any purpose prohibited by any applicable international and national legal instruments that may apply to the Controlled Items. End User shall comply with all applicable laws, statutes, federal laws, regulations, and rules (including obtaining any necessary export license or other governmental approval) that apply to the Controlled Items. End Customer shall be solely responsible for obtaining and completing any necessary licenses or undertakings prior to any export, re-export or release of the Controlled Items.
- 6.2. End User will not allow any individual, entity or organisation to gain access to or Use of the Products, Software or Document if End User knows, or has reason to believe, that such individual, entity or organisation is (or is acting on behalf of) either: (1) any individual, entity or organisation identified as a sanctioned party on any list maintained and published by the United Kingdom Foreign, Commonwealth and Development Office or the U.S. Department of Treasury, Office of Foreign Asset Control, or on any similar list of sanctioned parties published by an agency of the United Kingdom, the US or any member country of the EU; or (2) an entity or organisation 50% or more controlled, directly or indirectly, by a party so listed. A breach of this subsection will be considered an irremediable breach of this EULA.

7. MISCELLANEOUS

- 7.1. Governing Law and Jurisdiction. This EULA and any non-contractual obligations arising out of or in connection with it shall be interpreted and governed by the laws of England and Wales and the parties irrevocably agree to submit to the exclusive jurisdiction of the courts of England and Wales in relation to any dispute, claim or matter arising under or in connection therewith.
- 7.2. Force Majeure. Arqit will not be responsible for or be deemed in default or breach under this EULA by reason of any failure or delay in performance due to causes beyond its reasonable control including, but not limited to, strikes, labour disputes, civil disturbances, riot, rebellion, invasion, pandemic, epidemic, hostilities, war, terrorist attack, embargo or sanction, natural disaster, acts of God, flood, fire, sabotage, fluctuations or non-availability of power supplies or User equipment, loss and destruction of property.
- 7.3. Assignment. End User may not assign or delegate or otherwise transfer its licenses, rights, or duties under this EULA, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without Arqit's prior written consent. Any attempted prohibited assignment will be void and any delegation or other transfer will not relieve the End User of any of its obligations under this EULA. Arqit may freely assign, transfer, sub-contract or delegate any or all of its rights and/or its obligations under this EULA without the consent of the End User. Subject to the foregoing, this EULA shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.
- 7.4. License Verification and Audit. End User will maintain accurate and legible records during the term of the Agreement confirming deployment and usage of all Products at all sites, environments and for all Licensed Units (collectively "**Data**") and shall within 30 days of request, provide a report confirming all deployment and usage for the period requested. The report shall be in a form requested by Arqit or the Authorised Reseller and, where necessary, End User shall provide supporting documentation to evidence the Data submitted. Arqit may use the Data to (a) improve Product or Software performance or customer experience, or correct information in any Documentation; and/or (b) confirm compliance with the Agreement. End User will maintain records in relation to the foregoing for a period of three (3) years after the termination or expiration of this EULA or the Agreement covering usage or deployment of Software or other information relevant to its Use and consumption of the Products, and will grant to Arqit or the Authorised Reseller, or other Arqit designee, reasonable access to and copies of, any information reasonably requested by Arqit to verify compliance with the terms of this EULA and, without limiting any other remedy of Arqit, shall be liable to promptly pay Arqit for any additional fees incurred as a result of any excess Use of any Product by it

- 7.5. Order of Precedence: Subject to Section 4.12 above relating to the rights expressly reserved to any Third Party licensor, in the event of any conflict or inconsistency between the terms of the following documents listed, those listed first will have precedence and apply in place of such conflict or inconsistency in each subsequently listed document: (i) EULA; (ii) the Maintenance Contract; (iii) the Documentation; and (iv) Online Policies and Guidelines (together, “**Agreement**”).
- 7.6. Severability. In the event that any one or more provisions contained herein shall be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired.
- 7.7. Rights and remedies. Except as expressly provided in the Agreement, the rights and remedies provided herein are cumulative and in addition to, and not exclusive of, any other rights or remedies provided by law.
- 7.8. Waiver. A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 7.9. No Third-Party Beneficiaries. With the exception of any of Arqit’s third party licensor’s rights in the Software and/or Products, a person who is not a Party to the Agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.
- 7.10. Guidelines and Policies. Arqit may at any time modify any Online Policies and Guidelines which shall be effective when posted to the applicable Arqit site. By ordering Products and Services that are subject to this EULA, the End User understands that it is bound by Arqit’s then-current version of its Online Policies and Guidelines.
- 7.11. Entire Agreement. The English language version of this EULA and any document expressly stated to form part of the Agreement constitutes the entire understanding and agreement between the parties with respect to its subject matter and supersedes and extinguishes all previous and/or contemporaneous agreements, promises, assurances and understandings between the parties, whether oral or written, as well as any translated version (whether or not such translated version is signed). Each of the parties acknowledges and agrees that it has not been induced to enter into this EULA in reliance upon, and in connection with this EULA does not have any remedy in respect of, any representation or other promise of any nature whatsoever other than as expressly set out in the Agreement. Nothing in this EULA shall operate to limit or exclude any liability for any fraudulent misrepresentation or for any other matter in respect of which liability cannot lawfully be limited or excluded. End User shall execute such documents and take such steps as Arqit may reasonably require to fulfil the provisions of and to give to Arqit the full benefit of this EULA
- 7.12. Choice of Language. The original of this Agreement has been written in English, which will be the controlling language in all respects. Any translations into any other language are for reference only and will have no legal or other effect.
- 7.13. Variation. Arqit reserves the right to vary the terms of this EULA at any time. The version of the EULA that shall apply to the End User is the version which has been made available under the applicable Agreement or immediately prior to accessing and/or first Use by the End User of the Products and/or Services.

PART B: ARQIT PRODUCTS LICENSE TERMS AND CONDITIONS

This Part B sets out the rights licensed to End User to Use the Products and any restrictions on Use. The licenses granted under this Part B are subject to and conditioned upon the End User's strict compliance with the terms and conditions of this EULA.

1. SUBSCRIPTION LICENSE AND RIGHT TO USE

- 1.1. Right to Use. Arqit grants End User a non-exclusive, non-transferable, non-sublicensable, license to Use the Product identified in the Order and the associated Documentation, during the Subscription Term for up to the Licensed Units in the Territory. Any other Use is strictly prohibited including without limitation Use of the Product in excess of the Licensed Units.
- 1.2. Subscription Term. The Subscription will begin on the date that the Activation Notification is sent to End User and shall continue for the Subscription Term unless terminated earlier pursuant to this EULA.
- 1.3. Renewal. No less than sixty (60) days (for Subscriptions of 12 months or more) and thirty (30) days (for Subscriptions of six (6) months or more) prior to expiry of the initial and each subsequent Subscription Term, a notice of expiration setting out the then current Fees for the new Subscription and the new Subscription Term will be provided by Arqit or the Authorised Reseller to End User ("**Renewal Notice**"). At the end of the initial and each subsequent Subscription Term, the Subscription shall automatically renew for the period set out in the Renewal Notice unless cancelled by the End User on not less than 30 day's written notice to Arqit or the Authorised Reseller (as applicable). Failure to provide notice in accordance with the foregoing will not relieve End Customer of the obligation to pay the Subscription Fees for the new Subscription Term. Early repayment fees will be charged for any cancellation by the End Customer prior to the end of the Subscription Term which shall be equivalent to any Fees remaining and unpaid for the then current Subscription.
- 1.4. Cancellation. In the event that the Subscription is cancelled or otherwise terminated in accordance with the Agreement, and without limiting Arqit's rights under the Agreement or at law, End User's right to Use the Software shall automatically terminate and Arqit reserves the right to disable or reduce the functionality of the Software or limit to read only access and to cease End User's access to Arqit's Customer/Partner Portal or other End User accounts.

2. PERPETUAL LICENSE AND RIGHT TO USE

- 2.1. Right to Use. Arqit grants to End User a non-exclusive, non-transferable, non-sublicensable Perpetual License to Use the Products and any Documentation, for up to the Licensed Units in the Territory. Any other Use is strictly prohibited including without limitation Use of the Product in excess of the Licensed Units.
- 2.2. License Start Date. The Perpetual License will start on the date that the Activation Notification is sent to End User.

3. "QUICKSTART" LICENSE, LAB LICENSE, TRIAL LICENSE, PILOT INSTANCE, "POC" AND OTHER NON-COMMERCIAL USE LICENSES

- 3.1. Right to Use. Arqit grants to End User a non-exclusive, non-transferable, non-sublicensable license for the Subscription Term to Use the Product and any Documentation, for up to the Licensed Units in the Territory. Any other Use is strictly prohibited including without limitation Use of the Product in excess of the Licensed Units. All licenses are granted strictly for End User's own non-commercial Use (and not for sales, resale or commercial exploitation of any kind) for internal testing or proof of value, proof of concept or, if stated, for internal demonstration or prospective customer demonstration purposes.
- 3.2. License Start Date. The Subscription Term will begin on the date that the Activation Notification is sent to End User and shall continue for the Subscription Term.
- 3.3. Renewal Process. Prior to expiry of the Subscription Term, Arqit or the Authorised Reseller shall endeavour to issue a Quote to End User for a commercial Subscription License and/or Perpetual License Product. If End User wishes to purchase a commercial license, then End User shall sign and return the Quote and provide a corresponding non-cancellable purchase order to Arqit or Authorised Reseller (as applicable) on or before the expiration date of the then-current Subscription Term. Upon Arqit's receipt of the executed Quote, End User shall be invoiced in accordance with its agreement with the Authorised Reseller or the Quote (as applicable). In the event that the Subscription is not renewed, End User's right to Use the Software shall automatically terminate and Arqit reserves the right to disable or reduce the functionality of the Software or limit to read only access and to cease End User's access to Arqit's Customer/Partner Portal or other End User accounts.

- 3.4. Description. The “quick-start” license package is intended to provide quick access to Arqit’s QuantumCloud™ PaaS. The pilot instance Product is an initial phased system build that is a subset of the system’s final production-grade configuration. A lab license is granted for on-premise Products only. The primary function of the lab license, trial license or pilot instance license is to enable initial external software integration activities into third-party applications and systems to enable testing and validation of the primary functions that will be used in the final system implementations.
- 3.5. Separate Support Plans. All non-commercial packages are contained to single tenant customer IT infrastructure deployments. They are not subject to Arqit’s standard product support and maintenance SLA metrics and are provided solely “AS IS WITH ALL FAULTS AND WITHOUT EXPRESS OR IMPLIED WARRANTIES, CONDITIONS OR REMEDIES” in accordance with PART C: (Maintenance and Support Services).

4. GENERAL LICENSE RESTRICTIONS APPLICABLE TO ALL PRODUCTS.

- 4.1. End of Entitlement. Upon termination for any reason of the right to Use the Products, End User shall promptly cease all use of the Products and Documentation and permanently delete or destroy all copies of the Software and Documentation, and End User shall, provide written certification that it has complied with this subsection, if requested by Arqit or the Authorised Reseller.
- 4.2. Licenses or rights to Use the Products and Documentation that are not expressly granted in this EULA shall not arise by implication or otherwise and are hereby expressly excluded. End User shall have no right or license in the Products and Documentation unless End User has purchased and paid for the right to Use the Products from Arqit or an Authorised Reseller.
- 4.3. Unless expressly authorised by Arqit or, except to the extent transfer cannot be legally restricted under Applicable Law, End User shall not (to the extent each are applicable to the Products and Documentation (which includes the Software)):
 - (a) rent, lease, lend, sell, sublicense, transfer, assign, whether voluntarily or by operation of law, distribute, publish or otherwise make available the Products or any right or license in and/or to the Products or any features or functionality of the Products in whole or in part and in any format or via any media to any other person or legal entity, including an End User Affiliate. Any attempt to do any of the acts described in this subsection shall be void; or
 - (b) either (i) directly or indirectly, decompile, disassemble, reverse engineer, decode or otherwise attempt to derive or gain access the source code contained in the Software (or any part thereof), modify, adapt, translate, unbundle, detach or separate any part of or embed within, or create derivative works or improvements (whether or not patentable) based on any part of the Software or the Documentation; (ii) sell, resell, rent or lease any Products; (iii) unless expressly authorised by Arqit, make any copies of Software or Documentation except as reasonably necessary for archival and "cold" back-up purposes, but not for failover or "warm" back-up purposes (with any such copies remaining the exclusive property of Arqit and subject to the terms and conditions of this EULA); (iv) remove, delete, alter or obscure (or, if the license includes the right to make copies of the Software, fail to include in those copies) any readme files, notices, disclaimers, marks (including trademarks, whether or not registered) or Arqit or any Third Party licensor, or labels included in or forming any part of the Products or Services as delivered or made available by Arqit; and (v) Use or allow Use of the Product and/or Services in violation of any Applicable Law or to support or facilitate any illegal activity; or
 - (c) use the Products, Software or Documentation for purposes of competitive analysis of the Products (or any part of them), the development of competing products and/or services or any other purpose that could reasonably be considered to be to Arqit’s commercial disadvantage.

PART C: MAINTENANCE AND SUPPORT SERVICES

1. SCOPE AND TERM

- 1.1. Term. Arqit will provide Maintenance Services either (a) during the Subscription Term for Subscription-based Products that are permitted for commercial use; or (b) during the period that Customer has a valid and existing Maintenance Contract for Products subject to a Perpetual License.
- 1.2. Maintenance Services. Arqit may develop and provide Updates and Software Releases in accordance with the applicable Support Policy. End User agrees that all Updates and Software Releases will be deemed Software, and related documentation will be deemed Documentation, all subject to all terms and conditions of this EULA. End User acknowledges that Arqit may provide some or all Updates via download from the Internet and that End User will be responsible for any Internet connection required to receive such Updates. Arqit is not obligated to provide Updates of Software Release via any other media or in any particular format other than that which is made generally available to its licensees or as otherwise expressly agreed in writing with End User. For the avoidance of doubt, Arqit has no obligation to provide Maintenance Services:
 - (a) if End User is in material breach under this EULA or the Agreement, including where it has failed to pay any Fees under any Order;
 - (b) where End User does not have a valid and existing Maintenance Contract (either by virtue of a Subscription or as a separate agreement);
 - (c) in relation to Software Releases that are not or have not been subject to an End of Support Notice; and/or
 - (d) for any Software that has been modified other than by or with Arqit's express written authorisation, or that is being Used with any hardware, software, configuration, or operating system not forming part of the Product as specified in the Documentation.

2. SUPPLY OF MAINTENANCE AND SUPPORT SERVICES AND END OF SERVICE

- 2.1. Arqit Managed Products. For fully managed Arqit Subscription Products (i.e., where End User is granted access to Software stored on equipment owned, managed and/or under the control of Arqit or its authorised Third Party service providers), Arqit will provide Updates and Software Releases during Arqit defined maintenance windows.
- 2.2. On-Premises / Perpetual Licensed Products. For Arqit Products subject to a Perpetual License and for which End User has a valid and existing Maintenance Contract, or for on-premises Subscription Products, Arqit will make the Updates and Software Releases available to End User for End User to Use at their discretion. End User shall be solely responsible for implementing any such Updates and Software Releases.
- 2.3. Non-commercial Products. For any non-commercial use Products including without limitation any "quick-start" packages, lab licenses and/or pilot licenses, and unless otherwise expressly stated in the applicable Transaction Document, maintenance and support is limited to remote support to cover patch fixes, maintenance fixes and "best efforts" bug support within Arqit UK working hours.
- 2.4. End of Support: Arqit may from time to time and in accordance with its then current End of Support policy, issue End of Support Notices for discontinued Products and / or Services either directly to End User or through notifications issued on Arqit's website or via the Customer/Partner Portal.
- 2.5. End of Service. Arqit will provide End of Service ("EOS") notifications to End User for discontinued Products or Software, either directly or through notifications issued on Arqit's website or via Arqit's Customer/Partner Portal.
- 2.6. New Products: Maintenance Services do not include any new version or new release or Updates of the Software that Arqit may issue as a separate or new product. Arqit may determine whether any issuance qualifies as a new version, new release, or Update in its sole discretion.

PART D: DEFINITIONS AND INTERPRETATION

1. DEFINITIONS

Unless otherwise defined, capitalised terms used in this EULA shall have the meanings given to them in this PART D: Definitions and Interpretation.

Activation: means the activation of the Products which shall occur upon the sending of an Activation Notification or first Use of the Products (if earlier).

Activation Notification: means the email or other electronic notification or communication issued by or on behalf of Arqit confirming End User's right to Use the Software and Products has commenced.

Affiliate: means in respect of a Party, any other party which is controlling or controlled by or under common control with such party, where "control" means the direct or indirect ownership of more than 50% of the voting power in respect of a party.

Agreement: has the meaning given to it in PART A of this EULA.

Applicable Law: any statute, statutory provision or subordinate legislation or any mandatory rules or guidance issued by any regulatory body or government authority having jurisdiction over Arqit or the End User (as applicable).

Arqit: means the relevant Arqit entity identified in the applicable Transaction Document.

Authorised Reseller: means a reseller with a valid and existing contract with Arqit to license and sell the Products and Services under contract to the End User and as further identified in the Order.

Documentation: means collectively the user manuals, ordering technical manuals, data sheets and any other Arqit branded or Arqit proprietary materials in any form whatsoever that describe the installation, operation, use and/or technical specifications of the Products and Services.

End of Support Notice: means a notification issued by Arqit in accordance with Part C Section 2.4.

End of Support: means where Arqit has issued an End of Support Notice discontinuing the support (including Updates) in respect of an existing Software Release in accordance with Arqit's then current End of Support policy.

End User: means the Person that originally purchases, leases or licenses the Products and/Services as identified in the relevant Transaction Document.

Fees: the fees payable by the Customer for the Products and Services.

Intellectual Property Rights: means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection in any part of the world.

IP Claim: has the meaning given to it in Part A, Section 4.3.

Licensed Units: the aggregate number of permitted endpoints or other units of consumption applicable to the Use of the Products under the Agreement as further specified in the applicable Transaction Document.

Maintenance Contract: means a separate maintenance and support contract for the relevant Product including any defined service level agreements.

Maintenance Services: means the technical support services and maintenance to be provided by Arqit as further described in the applicable Transaction Document.

Maintenance Term: the stated period that the Maintenance Services shall be supplied under the applicable Maintenance Contract.

Online Policies and Guidelines: means Arqit's general policies and guidelines, including any technical specifications, that are applicable to the Products and Services or referenced in the Agreement, in such form as posted from time to time at Arqit's website, <https://arqit.uk/>.

Order: means the order form, work order, quotation or other binding document issued to the End User in respect of the purchase of the Arqit Products and/or Services.

Perpetual License: means a license to Use the Products which continues from the agreed start date of such license and continues for the full period of copyright under Applicable Law unless terminated earlier pursuant to this EULA or the Agreement, and expressly excluding any Subscription Products.

Person: means an individual or any corporate entity, governmental authority, partnership or any other entity in any form.

Products: means Arqit's products and solutions (including any Software) available from time to time and licensed pursuant to this EULA.

Professional Services: any professional services or support services to be provided by Arqit as further described in the Statement of Work.

Quote: means a quotation for the sale of any Arqit Products and/or Services issued to End User by Arqit or its Authorised Reseller.

Renewal: means any renewal of a Subscription based Product and/or Services in accordance with this EULA.

Services: mean Maintenance Services and/or Professional Services.

SKU: means a stock-keeping unit or unique identifier for each distinct Product and/or Service.

Software Releases: means any updates, upgrades, bug fixes, patches and other error corrections as Arqit may generally make available to all licensees of the relevant Product which are identified by Arqit as a new release of the Software.

Software: means Arqit's software in machine-readable object code and accompanying activation keys, if any, made available pursuant to this EULA and including, where applicable, any Software Releases and any Updates of such Software delivered as part of the Maintenance Services.

SoW or Statement of Work: the statement of work relating to the Professional Services either attached to or referenced in a Transaction Document.

Subscription: means a subscription to Use a Subscription License Product for the Subscription Term as set out in the Transaction Document.

Subscription Term: means the license period that Arqit will permit access to and Use of the Product or supply of the Maintenance Services under a Maintenance Contract to End User as further set out in the applicable Transaction Document.

Support Policy: means Arqit's policy relating to the issue of Updates, Software Releases and any other maintenance and support forming part of the Maintenance Services.

Territory: the territory/ies identified in the Transaction Document.

Third Parties: means any Person other than Arqit or End User.

Transaction Documents: any Arqit or Authorised Reseller documents that set out the specifics of the transaction such as the Fees and other specific commercial terms of sale and a description of the Products or Services. A Transaction Document may include, the Order, a Quote, a Renewal, the SoW or Maintenance Contract. There may be more than one Transaction Document.

Updates: means any updates, upgrades, bug fixes, patches and other error corrections to the Software as made available to all licensees from time to time either as part of a Subscription or pursuant to a Maintenance Contract.

Use: means to access, activate, download, install, view in an executable form or use in any way or consume the Products or Services in accordance with this EULA.

User: means any individual who Uses the Products including without limitation any employees, consultants, contractors, customers or prospective customers and/or agents of End User.

User Data: all information, including any personal data, provided by End User to Arqit in connection with the Agreement.

- 1.1. Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
- 1.2. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

- 1.3. A reference to a statute or statutory provision is a reference to it as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder.
- 1.4. The word “including” or any variation thereof means (unless the context of its usage requires otherwise) “including, but not limited to,” or “without limitation” and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

PART E: COUNTRY SPECIFIC TERMS

USA and Canada

Where any Products and/or Services are stated to be supplied by Arqit, Inc or otherwise supplied from the USA and/or Canada under the Transaction Document, the following text shall replace the relevant sections of this EULA in respect of that Transaction Document:

Part Ref	Section #	Replacement Term
PART A:	3.4	<u>Bankruptcy Events.</u> Arqit may immediately terminate any license to Use or supply of Products or Services where End User: (a) becomes insolvent or files, or has filed against it, a petition for voluntary or involuntary bankruptcy or under any other insolvency law, makes or seeks to make a general assignment for the benefit of its creditors or applies for, or consents to, the appointment of a trustee, receiver, or custodian for a substantial part of its property, or is generally unable to pay its debts as they become due; or (b) it ceases or threatens to cease to carry all or a substantial part of its business; or (c) suspends, or threatens to suspend, payment of its debts; or (d) anything analogous to any of the events in items (a) to (d) occurs in relation to End User under Applicable Law.
PART A:	7.1	<u>Governing Law.</u> The Agreement shall be governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of Delaware. <u>Jurisdiction.</u> Each of the Parties agrees that all actions or proceedings arising out of or in connection with the Agreement, or for recognition and enforcement of any judgment arising out of or in connection with the Agreement, shall be tried and determined exclusively in the state or federal courts in the State of Delaware, and each of the Parties hereby irrevocably submits with regard to any such action or proceeding, to the exclusive jurisdiction of the aforesaid courts. Each of the Parties hereby expressly waives any objection based on improper venue or forum non conveniens.
PART A:	7.9	<u>No Third-Party Beneficiaries.</u> With the exception of any of Arqit’s Third Party licensor’s rights in the Software and/or Products, the Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing therein, express or implied, is intended to or shall confer on any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of the Agreement.