



TRUSTMARK
Government Endorsed Quality

Property Checker Data Sharing Agreement

between

TrustMark (2005) Limited

and

[COMPANY NAME]

[WITH API INTEGRATION/TM PORTAL ACCESS]

1. SECTION A - Data Sharing Information

Company:	[Insert full company name], a company incorporated in [England & Wales/Scotland/Northern Ireland]; registered number [insert company number] and whose registered office is at [insert company address] (the "Company")
TrustMark:	TrustMark (2005) Limited, a company registered in England under company number 05480144 whose registered office is at Arena Business Centre, The Square, Basing View, Basingstoke, Hampshire, England, RG21 4EB ("TrustMark")
Representatives:	The Company: [insert name; job title and contact details] TrustMark: [insert name; job title and contact details]
Commencement Date:	[You must ensure that you complete this]
Termination Date:	From the commencement date, the charges will be applied annually unless the agreement is not renewed
Fees: (Please supply pre-paid period date if applicable)	[Insert as applicable]
Platform:	As set out in Schedule 1
Notices:	For the Company: General Notice Recipient: [insert name; job title and contact details] Data Breach Notification Email Address: [Please complete] Data Breach Notification Phone Number: [Please complete] For TrustMark: General Notice Recipient: Simon Charkham, Development and Support Manager scharkham@trustmark.org.uk Data Breach Notification Email Address: dataprotection@trustmark.org.uk Data Breach Notification Phone Number: 0333 555 1234
Processing Purposes:	Sharing Purposes: Data is shared only for the purposes outlined below and must not be used for any other purpose Property Check API: <ol style="list-style-type: none"> To assist homeowners in making suitable energy efficiency and low carbon improvements to their property. To enable homeowners to search their property records, view the Energy Performance characteristics and home improvement records to identify the current status of their property. To help homeowners make informed decisions about suitable energy efficiency and low carbon home improvements that could improve their property's energy efficiency and or reduce carbon emissions. Funder API: <ol style="list-style-type: none"> To enable funders of home improvements to check, prior to funding,

	<p>that the energy efficiency and low carbon improvements are not already in place.</p> <p>5. To allow funders of home improvements to verify that the energy efficiency and low carbon improvements they are funding have been installed.</p> <p>6. To help funders understand the environmental impacts of the work they fund and engage with TrustMark in would validation and associated assurance activities.</p> <p>Restrictions: Shared data must not be used for any unwanted or unsolicited activities, including advertising or cold calling and must not be used for any purpose that is unlawful or prohibited by the Terms of Use.</p>		
Approved third parties:	<p>Property Checker Data may be disclosed by the Company, subject to the terms of this Agreement, to the following third parties strictly for the Processing Purposes: [List those third parties to whom the Company wishes to disclose Property Checker Data]</p>		
Additional terms or obligations of the parties:	<p>[Please insert anything additional or different to that set out in the DSA that has been agreed between the parties as part of the DSA]</p>		
<p>Each of TrustMark and the Company being a Party and together TrustMark and the Company are the Parties.</p>			
<p>SIGNED BY the duly authorised representatives of the Parties</p>			
Company :	[Please complete]	TrustMark:	
Name:	[Please complete]	Name:	[Please complete]
Signature:	(Please sign)	Signature:	(Please sign)
Title:	[Please complete]	Title:	[Please complete]
Date:	[Please complete]	Date:	[Please complete]

2. SECTION B

2.1. Background

- A. The TrustMark Government Endorsed Quality Scheme has been recognised in statute since 1st January 2020 and also covers Energy Company Obligation (“ECO”) initiative (“ECO4”). The regulations require all work undertaken under ECO4 and other Government schemes to be TrustMark registered and lodged into TrustMark’s data warehouse.
- B. To strengthen this initiative and broaden the level of energy information consumers can access about their homes, TrustMark has developed a service called TrustMark Property Checker (“Property Checker”). Property Checker allows permitted persons to search for property records, view the energy performance certificate (“EPC”) and any home improvement records about the property to identify any measures which have been installed to improve the home’s energy rating.

- C. Subject to the Company fulfilling the requirements for registration with TrustMark, TrustMark hereby agrees to securely share the Property Checker Data with the Company.
- D. The information and records accessible via Property Checker relate to properties and do not typically identify any individual or data subject. However, the records lodged into TrustMark’s data warehouse may contain Personal Data and, therefore, TrustMark requires the Company to handle Property Checker Data as Personal Data and in accordance with the terms of this Agreement.

3. Definitions and Interpretation

- 3.1. In this Agreement, unless the context requires otherwise, the following words and expressions have the following meaning:

Agreement	means this Data Sharing Agreement including the Data Sharing Information and the schedules;
APIs	means the APIs (being application program interfaces) specified in the Data Sharing Information, and the “API Name”, “API Endpoints”, “API Functionality” and “API Limit”, shall be as set out in the Data Sharing Information;
Approved third parties	means those parties stated in Section A of this Agreement to whom the Company is permitted to disclose Property Checker Data or to permit access to Property Checker;
DESNZ	means the Department for Energy Security and Net Zero (formerly the Department for Business, Energy & Industrial Strategy) – with whom TrustMark has a Master Licence Agreement to deliver the quality mark;
Certification Bodies	means an Organisation accredited by UKAS to ISO/IEC 17065 for the delivery of certification services in accordance with PAS:2030;
Commencement Date	means the commencement date set out in Section A, Data Sharing Information (if any);
Confidential Information	means all information of a confidential nature (in whatever form) relating to Property Checker or TrustMark or TrustMark’s licensors which is given or disclosed by one party to the other or otherwise obtained by one party relating to the other’s business, finance or technology, know-how, intellectual property, assets, strategy, products or customers, any information which is obviously confidential in nature or has been identified as confidential, and the Property Checker Data;
Data Breach	means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Property Checker Data transmitted, stored or otherwise processed;
Data Controller	means a person or body who determines the purpose and means of the processing of Personal Data;

Data Processor	has the meaning given in applicable Data Protection Legislation;
Data Protection Legislation	means all applicable data protection and privacy legislation including GDPR; the Data Protection Act 2018; and any laws which implement replace, extend, re-enact, consolidate or amend any of the foregoing from time to time;
Data Protection Supervisory Authority	means any local, national or multinational agency, department, official, parliament, public or statutory person or any government or professional body, regulatory or supervisory authority, board or other body responsible for administering Data Protection Legislation;
Data Subject	has the meaning set out in Data Protection Legislation;
Data Sharing Information	means the information set out in Section A of this Agreement;
Energy Company Obligation	means the government efficiency scheme in Great Britain to help reduce carbon emissions and tackle fuel poverty;
Exiting Party	means the Party who is removed from the Agreement;
Fees	means the fees defined as such in the Data Sharing Information;
GDPR	means the General Data Protection Regulation (Regulation (EU) 2016/679) as it forms part of domestic law in the United Kingdom by virtue of section 3 of the European Union (Withdrawal) Act 2018 (including as further amended or modified by the laws of the United Kingdom or of a part of the United Kingdom from time to time);
General Notice Recipient	means the person defined as such for the relevant party in Section A - Data Sharing Information;
Intellectual Property Rights	means copyright, rights related to copyright such as moral rights and performers rights, patents, rights in inventions, rights to use and protect the confidentiality of confidential information (including, but not limited to know-how and trade secrets), trade marks, geographical indications, service marks, trade names, design rights, rights in get-up and trade dress, database rights, databases, data exclusivity rights, approvals, utility models, domain names, business names, rights in computer software, the right to sue for infringement, unfair competition and passing off, all similar rights of whatever nature wherever in the world arising, in each case: <ul style="list-style-type: none"> (a) whether registered or not; (b) including any applications to protect or register such rights; (c) including all renewals and extensions of such rights or applications; (d) whether vested, contingent or future; and

	(e) wherever existing;
Losses	means losses, liabilities, damages, wasted expenditure, costs and expenses (including legal fees on a solicitor/own client basis and all other costs related to the investigation, prosecution or defence of legal claims);
Outage	means any situation when the APIs or TM Portal are not operational and accessible to the Company, other than where TrustMark has given the Company notice of Service-impacting Maintenance in accordance with this Agreement;
Permitted Recipients	means the party's employees, officers, contractors, Subcontractors, agents or consultants;
Personal Data	has the meaning given to it in the GDPR and to the extent it applies to the Property Checker Data;
Platform	means the TM Portal or APIs, as specified in the Data Sharing Information;
Pre-Paid Period	means the period defined as such in the Data Sharing Information;
Process, Processing and Processed	each has the meaning set out in Data Protection Legislation;
Processing Purposes	means the purposes defined as such in the Data Sharing Information;
Property Checker	means the service developed by TrustMark which allows access to energy performance data and property records;
Property Checker Data	means the property data accessible when using Property Checker via the TM Portal or via an API and including any Personal Data;
Property Checker Terms of Use	means the terms of use for Property Checker as updated from time to time;
Representative	means in relation to a Party the person named as such in the Data Sharing Information;
Scheme Provider	means the trade association bodies, certification bodies and competent persons schemes partnered with TrustMark to deliver the quality mark;
Service-impacting Maintenance	means any change or update to or maintenance of the APIs or TM Portal, or the systems on which the APIs or TM Portal rely, in each case which may result in an interruption to the use or availability or performance of the APIs or the TM Portal;
Special Category Personal Data	means Personal Data that falls within the scope of the special categories of Personal Data specified in Article 9 of GDPR;
Subcontractors	means a firm or person that carries out work for a Party as part of a larger project;
System Provider	means, in relation to the Company, a third party which provides services to the Company, including by either

	or both providing and operating a system which connects to the APIs;
Term	means the period during which this Agreement is in force, starting on the Commencement Date and ending on the Termination Date or, if earlier, on the date which the Agreement terminates in accordance with the provisions of clause 15;
Termination Date	means the termination date set out in the Data Sharing Information (if any);
TM Portal	the secure TrustMark portal through which the Property Checker Data is accessed;
TrustMark Privacy Policy	means the policy, in place from time to time, which governs the data – personal and anonymised - held by TrustMark;
TrustMark Government Endorsed Quality Scheme	means the Government Endorsed Quality Scheme covering work a consumer chooses to have carried out in or around their home;
Working Day	means any day other than a Saturday, Sunday or a day that is a public or bank holiday in England.

3.2. In this Agreement:

- 3.2.1. the background section and the clause, paragraph, schedule or other headings in this Agreement are included for convenience only and shall have no effect on interpretation;
- 3.2.2. a reference to a 'party' includes that party's successors and permitted assigns;
- 3.2.3. words in the singular include the plural and vice versa;
- 3.2.4. any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
- 3.2.5. a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form (including email);
- 3.2.6. a reference to legislation is a reference to that legislation (and includes all subordinate legislation) as amended, extended, re-enacted or consolidated from time to time;
- 3.2.7. any obligation on the Company to do (or refrain from doing) anything shall include an obligation on the Company to ensure that each of the end users of the Platform do (or refrain from doing) such thing (and the Company shall be responsible for, and liable to TrustMark for, all acts and omissions of the end users of the Application as if they were the Company's own); and

4. Term

This Agreement shall start on the Commencement Date (or, if there is no Commencement Date, the date of the first transfer of Transferred Data) and shall continue until the Termination Date or the expiry of the Pre-Paid Period, unless terminated earlier in accordance with clause 15.

5. Fees and Payment

- 5.1. Where applicable, the Company shall pay the Fees specified in Section A of this Agreement, free and clear without any set-off, counterclaim, deduction or withholding of any kind, within 30 days of the Commencement Date (the “Due Date”).
- 5.2. All amounts due under this Agreement are exclusive of VAT, sales or other tax applicable for the time being prescribed by law.
- 5.3. Where the Company does not pay the Fees in full by the Due Date, TrustMark may, without limiting its other rights, charge interest on such sums due at 4% per annum above the base rate of the Bank of England from time to time in force. Interest will apply from the Due Date until actual payment in full.
- 5.4. If any Fees which are due are not paid by the Company within 90 days of the Commencement Date, TrustMark reserves the right to suspend access to the Platform without giving notice to the Company until the Fees are paid in full.
- 5.5. In respect of Outages, the Company is not entitled to any claim for reimbursement of any portion of the Fees or any service credits or similar credit from TrustMark.
- 5.6. TrustMark reserves the right to increase the Fees no more than once annually at a rate of Consumer Price Index + 3% which shall apply to the Fees on each anniversary of the Commencement Date.

6. Terms of Use

- 6.1. In addition to the relevant obligations specified in this clause 6, the Company agrees to abide by the Property Checker Terms of Use (a copy of the current version of which is provided in Schedule 2) as updated by TrustMark from time to time, and, where applicable, shall ensure that any other person or party to whom it provides access to the Platform or Property Checker Data complies with the Property Checker Terms of Use.

7. Data Processing Obligations

- 7.1. To the extent that the Property Checker Data is comprised of any Personal Data, each Party:
 - 7.1.1. acknowledges that it is a Controller of the Property Checker Data and shall comply with its obligations as a Controller as set out in Data Protection Legislation;
 - 7.1.2. at all times comply with all Data Protection Legislation in connection with the exercise and performance of its respective rights and obligations under this Agreement and ensure that Personal Data is only processed to the extent consistent with the permitted legal basis under Data Protection Legislation for which it was collected;
 - 7.1.3. notify the other Party without undue delay if it receives a request or enquiry from either a Data Protection Supervisory Authority or Data Subject about any Personal Data or the transfer of data under this Agreement, and the Parties shall co-operate, as is reasonably required to respond to such request or enquiry, and shall keep each other regularly updated as to the handling of such request or enquiry. The responsibility for complying with any Data Subject request falls on the Party which first received the request or communication;
 - 7.1.4. promptly following a written request from the other Party, provide to the other Party such information as is reasonably required to demonstrate its compliance with its obligations under this Agreement;
 - 7.1.5. cooperate with the Data Controller in the event the Data Controller initiates a data protection impact assessment or inspections for compliance to these obligations;

- 7.1.6. where acting as a Data Controller, the Parties agree that Special Category Personal Data will not be sought from users; and
- 7.1.7. use their reasonable endeavours to assist the other Party to comply with any obligations under applicable Data Protection Legislation and shall not perform its obligations under this Agreement in such a way as to cause the other Party to breach any of the other Party's obligations under applicable Data Protection Legislation to the extent it is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations.

TRUSTMARK'S OBLIGATIONS

- 7.2. Without prejudice to clause 7.1, TrustMark shall, in relation to the Property Checker Data:
 - 7.2.1. be the primary point of contact for Data Subjects and shall direct Data Subjects to the relevant person in connection with the exercise of their rights as Data Subjects and for any enquiries concerning any Personal Data;
 - 7.2.2. transfer Property Checker Data to the Company using appropriate technical and organisational security measures which shall be determined by TrustMark;
 - 7.2.3. ensure the Property Checker Data reflects the data stored in its systems at the point at which it commences transfer to the Company;
 - 7.2.4. make reasonable endeavours to ensure the Property Checker Data is up-to-date;
 - 7.2.5. if the Property Checker Data comprises of Personal Data, ensure that the Personal Data has been collected, Processed and transferred to the Company in accordance with Data Protection Legislation.

THE COMPANY'S OBLIGATIONS

- 7.3. Without prejudice to clause 7.1, the Company shall:
 - 7.3.1. process the Property Checker Data solely for the Processing Purposes and not use the Property Checker Data in any way for any purpose except as specifically permitted by, and at all times in accordance with this Agreement;
 - 7.3.2. if the Property Checker Data comprises Personal Data, when processing the Personal Data the Company shall provide to Data Subjects such information as is required by Data Protection Legislation, in the manner prescribed by Data Protection Legislation (if any);
 - 7.3.3. except as required by applicable law in the United Kingdom, the Company shall Process all Personal Data for no longer than such Processing is necessary for the Processing Purposes and compliant with this Agreement and all Data Protection Legislation;
 - 7.3.4. taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of Data Subjects, implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, taking account in particular the risks that are presented by the Processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Property Checker Data;
 - 7.3.5. take all steps set out below in respect of its employees who have access to the Property Checker Data ("Personnel"):
 - 7.3.5.1. to ensure that only those Personnel who need to have access to the Property Checker Data are granted such access, and such access is permitted solely for the Processing Purposes;

- 7.3.5.2. take all reasonable steps to ensure the reliability of its Personnel;
- 7.3.5.3. ensure that all Personnel have completed training in Data Protection Legislation and in the care and handling of Personal Data;
- 7.3.5.4. ensure that all Personnel are informed of the confidential nature of the Property Checker Data and are subject to appropriate contractual obligations of confidentiality; and
- 7.3.5.5. ensure that all Personnel comply with the obligations set out in this clause 7;
- 7.3.6. ensure that it has the capability (technological and otherwise), to the extent required by Data Protection Legislation, to:
 - 7.3.6.1. provide, correct or delete at the request of a Data Subject all the Personal Data relating to that Data Subject; and
 - 7.3.6.2. comply with any data subject requests;
- 7.3.7. only share Personal Data with a third party to the extent that it is necessary to achieve the Processing Purposes and where that third party has entered into a data processing agreement with the Company to ensure the third party's compliance with Data Protection Legislation;
- 7.3.8. not disclose any Personal Data to any third party other than a System Provider except with TrustMark's prior written consent, or else as required by law;
- 7.3.9. not transfer the Property Checker Data outside the European Economic Area (EEA) except with TrustMark's prior written consent, or else as required by this Agreement or by law; and
- 7.3.10. in the event of a Data Breach relating to the Property Checker Data, the Company shall:
 - 7.3.10.1. without undue delay and in any case within twenty four (24) hours of becoming aware of the Data Breach, notify TrustMark via email and telephone using the details in (as stated in the "Notices" section of clause 1 above);
 - 7.3.10.2. complete and return to TrustMark within two (2) working days hours any requests for information or forms to be completed as instructed by and provided by TrustMark; and
 - 7.3.10.3. provide at any time following the Data Breach, without undue delay, any such information and assistance that TrustMark may reasonably request.

8. Third party processing

- 8.1. The Company undertakes not to disclose or transfer the Property Checker Data or any Personal Data to any third party other than to a Permitted Recipient and as permitted by clause 8.3 below, and where it is strictly necessary to do so for the Processing Purposes.
- 8.2. The Company shall ensure any Personal Data which is transferred and disclosed is subject to equivalent and legally binding obligations which are no less onerous than those set out in this Agreement. This clause 8.2 is without prejudice to any disclosure or transfer required by applicable law in the United Kingdom.
- 8.3. In respect of any Processing of Personal Data performed by a Data Processor on behalf of the Company, the Company shall:
 - 8.3.1. carry out adequate due diligence on such Data Processor to ensure that it is capable of providing the level of protection for the Personal Data as is required by this

Agreement and Data Protection Legislation, and provide evidence of such due diligence to TrustMark where reasonably requested; and

- 8.3.2. ensure that suitable written agreements are at all times in place with each Data Processor as required under applicable Data Protection Legislation.
- 8.3.3. The Company shall be liable to TrustMark for all acts and omissions of each of its Permitted Recipients and Data Processors in connection with the Personal Data. Each obligation in this Agreement on a Party to do, or refrain from doing, anything shall include an obligation on that Party to ensure all its Permitted Recipients and Data Processors do, or refrain from doing, such thing.

9. Use of Property Checker Data and APIs

- 9.1. This clause 9 applies to the Property Checker Data howsoever it is obtained by the Company, including access via any Platform listed in Section 1 of this Agreement.
- 9.2. In accordance with this Agreement, and with effect from the Commencement Date, TrustMark grants the Company a non-exclusive, revocable, non-transferable and non-sublicensable licence to use the Property Checker Data and, if applicable, TM Portal and APIs for the Processing Purposes in the United Kingdom and subject to the restrictions on use in clauses 9.5 and 11.3-11.5 (inclusive) below.
- 9.3. The grant of the licence in clause 9.2 shall be until the Termination Date, unless terminated earlier in accordance with the terms of this Agreement.
- 9.4. The grant of licence given in clause 9.2 shall include any corrections, patches, fixes, updates, upgrades, new releases or new versions subsequently received (if any) of the API unless otherwise agreed in writing by the Parties.
- 9.5. The Company shall not:
 - 9.5.1. use the Property Checker Data and Platform contrary to any restriction stated in this Agreement or otherwise in a way that is not expressly permitted by this Agreement;
 - 9.5.2. use the Property Checker Data and Platform to make any Personal Data or Confidential Information publicly available;
 - 9.5.3. permit any third party other than a System Provider to use the Platform;
 - 9.5.4. submit any search on to the Platform on behalf of a third party, except for a search on behalf of the owner of the property from whom they have obtained consent for the search to be performed;
 - 9.5.5. use the Property Checker Data to undertake or promote any unwanted or unsolicited activities including advertising or cold calling, or sending spam;
 - 9.5.6. sublicense or share the API keys with any third party without the prior written approval of TrustMark;
 - 9.5.7. sell, lease or act as a wrapper to TrustMark data or service;
 - 9.5.8. exceed any API Limits and, in respect of any APIs for which there is no API Limit, the Company shall make only reasonable use of the APIs;
 - 9.5.9. perform any action that could be harmful to end users' or TrustMark's systems or data (including introducing to TrustMark services any viruses, worms, defects, Trojan horses, malware, or any items of a destructive nature or with illegal intent);
 - 9.5.10. except as permitted within this Agreement or expressly permitted by mandatory law which cannot be varied by agreement of the Parties, shall not:

- 9.5.10.1. use, copy, modify, adapt, correct errors in, or create derivative works from, the Platform, Property Checker or the Property Checker Data;
- 9.5.10.2. decode, reverse engineer, disassemble, decompile, translate, convert, observe, study or test the functioning of the Platform, Property Checker or TrustMark's website; or
- 9.5.10.3. assign, sub-license, lease, resell, rent, distribute or otherwise deal in or encumber the Platform, Property Checker or the Property Checker Data;
- 9.5.11. undertake any text or data mining on the Platform, Property Checker or Property Checker Data;
- 9.5.12. unless expressly permitted within this Agreement or by applicable law, scrape, build databases, or otherwise create permanent copies of content retrieved from Property Checker via the Platform or otherwise;
- 9.5.13. use Property Checker, Property Checker Data or the Platform:
 - 9.5.13.1. for any unlawful purpose whatsoever;
 - 9.5.13.2. to encourage or promote an illegal activity;
 - 9.5.13.3. in any way which is abusive, harmful, threatening, defamatory or any other way that may cause offence;
 - 9.5.13.4. or violation of third party rights; or
 - 9.5.13.5. in any way which breaches or could potentially breach a legal duty to a third party (including a duty of confidentiality) or which infringes or could potentially infringe a person's right to privacy; or
 - 9.5.13.6. in anyway which may infringe the intellectual property rights of third parties.
- 9.6. The Company shall:
 - 9.6.1. keep confidential any TM Portal and API credentials, account details or security information provided to it by TrustMark;
 - 9.6.2. install any updates to the API as soon as reasonably practicable and in any event in the timescales required by TrustMark. If updates are not installed within the requisite timescales, TrustMark may withdraw access to the API until such time as the update has been installed;
 - 9.6.3. comply with all reasonable instructions from TrustMark with regard to the use of Property Checker and the Platform, including any terms of use;
 - 9.6.4. notify TrustMark without undue delay upon becoming aware:
 - 9.6.4.1. that any third party other than a System Provider has access to, or has become aware of it, its API or TM Portal credentials, account details or security information; or
 - 9.6.4.2. of material security concerns relating to the Platform, Property Checker or Property Checker Data, providing all such information as the Company is reasonably able to provide in the circumstances. If TrustMark requests additional information or assistance from the Company, the Company shall provide such information or assistance as is reasonable in the circumstances;
 - 9.6.4.3. comply with all applicable law, regulation, codes of practice, guidance and other requirements of any relevant government, governmental or regulatory agency or other relevant body (including without limitation laws regarding the import or export of data or software, privacy, and local laws); and

9.6.4.4. comply with any policy in relation to Property Checker and the Platform which TrustMark specify.

9.7. TrustMark shall:

9.7.1. make available to the Company the Platform (including any account details to access the TM Portal), from the Commencement Date or at a time otherwise agreed between the Parties;

9.7.2. make reasonable endeavours to keep the Platform operational and accessible to the Company;

9.8. TrustMark reserves the right at any time to access the API application in order to ensure that the Company is complying with this Agreement in respect of its use of the API and the Company shall provide all information and assistance reasonably requested by TrustMark to verify that the Company's use of the API is in accordance with this Agreement.

9.9. The Company agrees that TrustMark may use any feedback and suggestions for improvement relating to the Platform and the services provided by the Company or any end user without charge or limitation ("Feedback"). The Company hereby assigns (or shall procure the assignment) of all Intellectual Property Rights in the Feedback with full title guarantee (including by way of present assignment of future Intellectual Property Rights) to TrustMark at the time such Feedback is first provided to TrustMark.

9.10. The Company hereby waives (and shall ensure all relevant third parties have waived) all rights to be identified as the author of any work, to object to derogatory treatment of that work and all other moral rights in the intellectual property rights assigned to TrustMark under this Agreement.

10. Confidentiality and announcements

10.1. The Company shall keep confidential all Confidential Information of TrustMark and its licensors and shall only use the Confidential Information as permitted by this Agreement. The provisions of this clause shall not apply to:

10.1.1. any information which was in the public domain at the Commencement Date;

10.1.2. any information which comes into the public domain subsequently other than as a consequence of any breach of the Agreement or any related agreement;

10.1.3. any information which is independently developed by the Company without using information supplied by TrustMark; or

10.1.4. any disclosure required by law or a regulatory authority or otherwise by the provisions of the Agreement.

10.2. except that the provisions of clauses 10.1.1 to 10.1.3 shall not apply to information to which clause 10.3 relates.

10.3. The Company shall not make any public announcement or disclose any information regarding the Agreement, except to the extent required by law or regulatory authority.

10.4. To the extent any Confidential Information is Personal Data, such Confidential Information may be disclosed or used only to the extent such disclosure or use complies with and does not conflict with any provisions of clause 7.3 and its subclauses.

10.5. This clause 10 shall survive termination or expiry of this Agreement and continue indefinitely.

11. Intellectual Property

- 11.1. The Company acknowledges that all Intellectual Property Rights in Property Checker and Property Checker Data are the property of TrustMark or of TrustMark's licensors and that the Company shall have no rights in or to Property Checker or Property Checker Data other than the right to use the Property Checker and Property Checker Data for the Processing Purposes in accordance with the terms of this Agreement.
- 11.2. The Company acknowledges that TrustMark provides no warranties whatsoever in relation to the Intellectual Property Rights in the Property Checker or Property Checker Data. TrustMark excludes any and all liability to the Company (to the extent permissible by law) that may arise in relation to the Intellectual Property Rights in Property Checker and the Property Checker Data.
- 11.3. Subject to clause 11.4 and 11.5, the Company may combine the Property Checker Data with the Company's own data provided always that the Company shall ensure that the Property Checker Data remains identifiable as the data of TrustMark and its licensors and is only used for the Processing Purposes.
- 11.4. The Company acknowledges that Property Checker may include data which is licensed to TrustMark from a third party (including but not limited to, Ordnance Survey, Royal Mail Copyright and Database Right Notice and in respect of public sector information, data licensed under the Open Government Licence v3.0) ("Third party license"). The Company agrees that it shall request or obtain copies of any Third party license (including any updates or additional Third party licenses that may apply from time to time) applicable to Property Checker Data and shall (and shall ensure that any of its Approved third parties and Permitted Representatives shall) be bound by the terms of those Third party licenses (and any updates or additional Third party licenses that may apply from time to time) when using Property Checker and Property Checker Data.
- 11.5. Further to clause 11.4, the Company shall undertake regular checks to ensure the Third party licenses have not been updated, changed or replaced and whether there are additional Third party licenses which apply to the Property Checker Data. These checks shall be conducted via contact with TrustMark directly or via any source given to the Company by TrustMark for this purpose. Where the terms of the third party license requires a statement of attribution to be used, the Company shall (and ensure that its Permitted Representatives and Approved third parties shall) clearly provide the source of the data as stated in the Third party license (as updated from time to time) in any materials or use of the Property Checker Data, or any part of the Property Checker Data.

12. Liability

- 12.1. Subject to clause 12.3, in no event shall TrustMark's aggregate liability (whether arising for breach of contract (including under any indemnity), misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty, warranty, strict liability or any other legal theory howsoever arising) in respect of all Losses arising under or in connection with this Agreement exceed the Fees paid by the Company in the 12 months prior to any liability arising.
- 12.2. Subject to clause 12.3, TrustMark shall not be liable (whether directly or indirectly) for any loss of profit, loss or corruption of data, loss or corruption of software or systems, loss or damage to equipment, loss of use (whether temporary or permanent), loss of production, loss of contract, loss of opportunity, loss of savings, discount or rebate (whether actual or anticipated), and/or harm to reputation or loss of goodwill and/or for any consequential, indirect or special losses.

- 12.3. Notwithstanding any other provision of this Agreement, neither party's liability shall be limited in any way in respect of the following:
- 12.3.1. death or personal injury caused by negligence;
 - 12.3.2. fraud or fraudulent misrepresentation;
 - 12.3.3. any other losses which cannot be excluded or limited by applicable law.
- 12.4. The provisions of this clause 12 shall survive termination or expiry of this Agreement and continue indefinitely.

13. Indemnity

- 13.1. The Company shall indemnify, keep indemnified and hold harmless TrustMark against all Losses which TrustMark may sustain or incur in connection with any misuse of the Platform, including but not limited to any use of the foregoing in breach of this Agreement; and
- 13.2. The provisions of this clause 13 shall survive termination or expiry of this Agreement and continue indefinitely.

14. Notices

- 14.1. Save for notices under clause 7.3.10, any notice or other communication given by a party under this agreement shall be: (i) in writing; (ii) signed by, or on behalf of, the party giving it; and (iii) sent to the relevant Party's General Notice Recipient at the addresses set out the Data Sharing Information.
- 14.2. Notices may be given and are deemed received: (i) by hand: on delivery; (ii) by first class post: on the second business day after posting; or (iii) by email: 24 hours from delivery if sent to the correct email address.
- 14.3. This clause 14 does not apply to notice given in legal proceedings, arbitration or other dispute resolution proceedings.
- 14.4. Parties may change the addresses in the Data Sharing Information by giving the other party notice of such a change which shall be effective five Working Days after been deemed received in accordance with clause 14.2.

15. Termination

- 15.1. This Agreement shall terminate automatically on the Termination Date (if any) or in accordance with clauses 15.3 to 15.4.
- 15.2. TrustMark may at any time terminate the Agreement at its sole discretion by provision of no less than 3 months' notice in writing to the Company.
- 15.3. TrustMark may, without prejudice to its other rights and remedies, by notice in writing to the Company immediately terminate this Agreement at any time if the Company is in repeated or material breach of this Agreement or the Property Checker Terms of Use.
- 15.4. TrustMark may terminate this Agreement by providing 20 Working Days' written notice to the Company. In such circumstances, the Company will be entitled to a pro rata refund of Fees paid, but no element of the Fees payable for the setup of any APIs will be reimbursed.

16. Effect of termination or expiration

- 16.1. In the event of termination or expiry of this Agreement:

- 16.1.1. all licences granted to the Company under this Agreement shall terminate immediately and the Company shall ensure that it shall (except as necessary for compliance with this clause 16):
 - 16.1.1.1. stop using the Platform;
 - 16.1.1.2. delete all copies of the API;
- 16.1.2. Where applicable each Party shall within seven days (at the other Party's option) return or destroy and delete all the other Party's Confidential Information and, in the case of the Company, the Property Checker Data and data relating to the Platform in its possession or under its control and all copies of such information, except that:
 - 16.1.2.1. neither Party shall require the other to delete any Personal Data (including any Personal Data that either Party have acquired by virtue of being a Party under this Agreement) in relation to which it is a Controller.
- 16.1.3. Without prejudice to any accrued rights and liabilities of either Party at any time up to the date of termination or expiry, all provisions of this Agreement shall cease to have effect, except that any provision which can reasonably be inferred as continuing or is expressly stated to continue shall continue in full force and effect.

17. Audits

- 17.1. The Company shall (and shall ensure all its Permitted Recipients shall) promptly:
 - 17.1.1. make available to TrustMark such information as is reasonably required to demonstrate the Company's compliance with its obligations under this Agreement;
 - 17.1.2. upon reasonable prior notice allow for, permit and contribute to audits, including inspections, by TrustMark (or another auditor mandated by TrustMark) during normal business hours to the extent necessary to verify the Company's compliance with its obligations under this Agreement; and
 - 17.1.3. provide (or procure) access to all relevant systems, Personnel, business premises and records for the purposes of each such audit or inspection referred to in clause 17.1.2 and provide (and procure) all further reasonable co-operation, access and assistance in relation to any such audit or inspection.
- 17.2. The Company shall allow TrustMark to exercise its rights at clause 17.1 in the period up to three months after the termination or expiry of this Agreement.
- 17.3. When conducting audits and inspections, TrustMark shall comply with the Company's reasonable directions in order to minimise disruption to the Company's business and to safeguard the confidentiality of the Company's Confidential Information. The Party subject to the audit or inspection may require any third parties conducting such audit or inspection to enter into direct confidentiality undertakings with it.

18. General

WAIVER

- 18.1. Any failure to exercise or any delay in exercising a right or remedy provided by this Agreement or at law or in equity shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies. A waiver of a potential action or remedy for breach of any of the terms of this Agreement shall not constitute a waiver of any other potential action or remedy for breach and shall not affect the other terms of this Agreement.

18.2. The rights and remedies provided by this Agreement are cumulative and (subject as otherwise provided in this Agreement) are not exclusive of any rights or remedies provided at law or in equity.

ASSIGNMENT

18.3. The Company may not assign, transfer, sub-licence, mortgage, charge, novate or otherwise dispose of or create any trust in relation to any or all of its rights and obligations under this Agreement.

ENTIRE AGREEMENT

18.4. This Agreement together with its schedules and the Property Checker Terms of Use (as updated from time to time) contains all the terms which Company and TrustMark have agreed in relation to the transfer and supersedes any prior written or oral agreements, representations or understandings between the Parties relating to it.

18.5. Each Party acknowledges that it has not relied upon any warranty, representation, statement or understanding made or given by or on behalf of the other Party which is not set out in this Agreement and agrees that it shall have no claim in respect of the same.

18.6. Nothing in this Agreement will exclude any liability which one Party would otherwise have to the other Party in respect of any statements made fraudulently.

VARIATION

18.7. This Agreement can only be varied by a written agreement which recites its intention to amend this Agreement and which is signed by persons who have the authority and capacity to bind the respective Parties to a legal contract.

NO PARTNERSHIP OR AGENCY

18.8. Nothing contained in this Agreement, and no action taken by the Parties pursuant to this Agreement, will be deemed to constitute a relationship between the Parties of partnership, joint venture, principal and agent or employer and employee. Neither Party has, nor may it represent that it has, any authority to act or make any commitments on the other Party's behalf.

CONFLICTS WITHIN AGREEMENT

18.9. If there is a conflict between the terms contained in this Agreement, the schedules and the Property Checker Terms of Use, the following descending order of priority applies:

18.9.1. the terms of this Agreement;

18.9.2. the schedules; and

18.9.3. the Property Checker Terms of Use.

SEVERANCE

18.10. If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable such invalidity, illegality or unenforceability shall not prejudice the other provisions of this Agreement which shall remain in full force and effect and, if the provision in question would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification as may be necessary to make it valid.

THIRD PARTY RIGHTS

18.11. Except to the extent that enforcement by TrustMark's licensors is permitted, the Parties confirm that it is not their intention to confer any rights on any person who is not a Party to this Agreement by virtue of its terms, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

GOVERNANCE AND DISPUTE RESOLUTION

- 18.12. Each Party shall keep in place at least one Representative and shall keep the other Party informed of the name and contact details of its Representative.
- 18.13. In the event that any disputes or disagreements arise between the Parties, either Representative may, on reasonable notice to the other, call a meeting (including a phone call) of the Representatives in order to seek a resolution of the issue in question. If the Parties have not resolved the issue within five Working Days, each Party is obliged to source an independent arbitrator agreed by both Parties before referring the issue to the courts in accordance with clause 18.14.

GOVERNING LAW AND JURISDICTION

- 18.14. This Agreement, 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 at all times in accordance with the laws of England and, without prejudice to the dispute resolution procedure set out in clause 18.13, the Parties submit to the exclusive jurisdiction of the courts of England.

SCHEDULE 1 - PLATFORM SPECIFICATIONS

APIs

Property Checker API:

The TrustMark Property Checker Integration API (PCIAPI) is an API that is available for third parties to look up measures that have been installed at a property by providing a Unique Property Reference Number (UPRN).

Funder API:

The TrustMark Funder Integration API (FIAPI) is an API that allows TrustMark Funder Integration Partners to directly integrate to the TrustMark Lodgement Process enabling tracking of measures installed at properties by a Funder's own Loan Reference.

API Name:	[Please insert]
API Functionality:	[Please insert]
API Endpoints:	[Please insert]
API Limit:	[Please insert]

Commented [ML1]:

Commented [ML2R1]: leave it in but take it out if not relevant

TM Portal

Accessible via: [add link address]

Commented [ML3]: @Philip Vaughan What is the link for this?

[Number of TM Portal accounts permitted: The Company is limited to 20 accounts, such accounts to be created and login details provided by TrustMark upon request by the Company.]

SCHEDULE 2 – PROPERTY CHECKER TERMS OF USE

This Schedule provides the Property Checker Terms of Use applicable at the Commencement Date and are subject to updates from time to time. Any updates to the Property Checker Terms of Use will be updated on the TM Portal and notified to you upon login.

Property Checker - Terms of Use

1. About us

1. We are TrustMark (2005) Limited (trading as TrustMark), a company registered in England and Wales (company no: 05480144) whose registered office is at Arena Business Centre, The Square, Basing View, Basingstoke, Hampshire, England, RG21 4EB.

2. About our terms

1. Our website "www.trustmark.org.uk" and its contents (the **Site**) provides several products and services. These terms and conditions of use (**Terms**) explain how you may use the part of the Site known as Property Checker (**Property Checker**) which can be found at <https://property-checker.data-hub.org.uk/> or accessed via an authorised interface (**API**). These Terms apply between TrustMark (**we, us or our**) and you, the person accessing or using Property Checker (whether you are an individual or acting on behalf of a legal entity) (**you or your**).
2. You should read these Terms carefully before using Property Checker. By using Property Checker or otherwise indicating your consent, you agree to be bound by these Terms and any additional terms and conditions provided by us. If you do not agree with any of these Terms, you should stop using Property Checker immediately.
3. We may prevent or suspend your access to Property Checker if you do not comply with these Terms or any applicable law.

3. Property Checker

1. Property Checker is designed, maintained and administered by us to provide you with insights and information about the energy efficiency of certain properties and the additional measures that could improve their energy efficiency.
2. Property Checker is limited to providing information about the energy efficiency of properties in the United Kingdom only.
3. Property Checker is provided subject to limitations of fair and reasonable use, which we will determine in our sole discretion. We may restrict, terminate or suspend any access which is deemed to be excessive or is not or does not appear to be strictly for the use we have agreed with you.
4. Commercial use may be permitted where you have entered into a formal written agreement with us and, in that case, your use of Property Checker is also subject to the terms of that agreement.

4. Information accessed via Property Checker / Using Property Checker

1. We are not responsible for any agreements or arrangements that you may enter into, or any interactions that you may have with third parties on the basis of your use of Property Checker (including the data that you access via Property Checker). We are not responsible to you for any aspect of any third party services or for your agreement with any such third parties.
2. You agree that you are solely responsible for all costs and expenses you may incur in relation to your use of Property Checker and any third party websites, products or services accessible from it.
3. Should you choose to access Property Checker from outside the UK, you acknowledge you do so at your own risk and are responsible for compliance with local laws where they apply.
4. We monitor, review and keep records of your use of Property Checker. We may disclose this information to third parties including property owners and residents upon request.

5. Registration and password security

1. Use of Property Checker requires registration and/or authentication. We may require you to provide proof of your identity, company, address or any other details we reasonably require to verify your identity. For commercial use, you will also be required to enter into a formal agreement with us prior to any commercial use.
2. We are not obliged to permit you to register for or to access Property Checker and we may refuse, terminate or suspend registration at our sole discretion at any time.
3. You are responsible for making sure that your password and any other account details are kept secure and confidential.
4. If we have reason to believe there is likely to be or has been a breach of security or misuse of Property Checker through your account or the use of your password, we may notify you and require you to change your password, or we may suspend or terminate your account.

6. Unacceptable use

1. As a condition of your use of Property Checker, you agree not to use Property Checker or any part of our Site or API:
 1. for any purpose that is unlawful under any applicable law or prohibited by these Terms;
 2. to promote any unlawful activity (including but not limited to the promotion or sale of any unlawful goods or services);
 3. for any commercial purposes except where you have entered into a formal written agreement with us permitting such use;
 4. if you are involved in the assessment or installation of energy efficiency or low carbon heat measures for any recipient of a government awarded grant for those purposes;
 5. to commit any act of fraud;
 6. to distribute viruses or malware or other similar harmful software code;
 7. for undertaking or promoting any unwanted or unsolicited activities including advertising or cold calling, or sending spam;
 8. to undertake searches on a property for which you do not have the consent of the property owner;
 9. to simulate communications from us or another service or entity in order to collect identity information, authentication credentials, or other information ('phishing');
 10. in any manner that disrupts the operation of Property Checker, our Site or business or the website or business of any other entity;
 11. in any manner or for any purpose that is abusive, harmful, threatening or defamatory or may cause offence;
 12. to represent or suggest that we endorse any other business, product or service unless we have separately agreed to do so in writing;
 13. to in any way infringe the intellectual property rights of us, our licensors or any third party;
 14. to gain unauthorised access to or use of computers, data, systems, accounts or networks; or
 15. to attempt to circumvent password or user authentication methods.
2. We may terminate or suspend your access to Property Checker without notice for any known or suspected breach of any of the conditions in 6.1 or where we, in our sole discretion, determine that access should be suspended or terminated for any reason.

7. Privacy and personal information

1. Your privacy and personal information are important to us. Any personal information that you provide to us will be dealt with in line with our [Privacy Policy](#) and [Cookie Policy](#), which explains what personal information we collect from you, how and why we collect, store, use and share such information, your rights in relation to your personal information and how to contact us and supervisory authorities if you have a query or complaint about the use of your personal information.
2. We do not intend that you will be able to access personal information via Property Checker. If processing falls within the scope of applicable data protection laws, you will become a data controller and are solely responsible for complying with the relevant law.
3. If you have reason to believe that you have suffered a data breach affecting data obtained from Property Checker, you must notify us without undue delay. You agree to fully co-operate and to provide all information we and our licensors may require in investigating and remediating the data breach.

8. Ownership, use and intellectual property rights

1. The intellectual property rights in Property Checker and in any text, images, video, or other multimedia content or other information or material submitted to or accessible from Property Checker (**Content**) are owned by us and our licensors.
2. Other trade marks and trade names may also be used on Property Checker or in the Content. Use by you of any trade marks on Property Checker or in the Content is strictly prohibited unless you have our prior written permission.
3. Property Checker may include third party services which are governed by third party licences. In particular, certain data within Property Checker is licenced subject to the Ordnance Survey and Royal Mail Copyright and Database Right Notice. Property Checker also contains public sector information, which is licensed under the Open Government Licence v3.0. The latest versions of these licences are accessible via those third parties' websites. By using Property Checker, you confirm that you have read, agree to, and shall be bound by the terms of applicable third party contracts and will observe any third party terms that are applicable to your use of Property Checker.
4. We, our licensors and any relevant third parties reserve all our intellectual property rights (including, but not limited to, all copyright, trade marks, domain names, design rights, database rights, patents and all other intellectual property rights of any kind) whether registered or unregistered anywhere in the world. This means, for example, that we remain owners of them and are free to use them and permit/deny use of them as we see fit.
5. Nothing in these Terms grants you any legal rights in Property Checker or the Content other than as necessary for you to access it. You agree not to adjust, try to circumvent or delete any notices contained on Property Checker or the Content (including any intellectual property notices) and in particular, in any digital rights or other security technology embedded or contained within Property Checker or the Content.
6. You must not to decompile, reverse engineer, translate, disassemble, modify or adapt, observe or study or test the functionality of, attempt to derive the source code of, or in any way misuse Property Checker, the Site or API (and any part of them).

9. Accuracy of information and availability of Property Checker

1. Property Checker incorporates various data sources to provide you with information about a property, however, these data sources do not always use the most up to date information available and may not include all data that is available about a property. We are not responsible for any omissions in the data, for the accuracy of the data or for any assumptions you may make using the data.

2. You are solely responsible for the technology that you need to access Property Checker. We try to make sure that Property Checker is accurate, up-to-date and free from bugs, but we cannot promise that it will be. Any reliance that you may place on the information on Property Checker is at your own risk.
3. Property Checker and the information it generates are for your general information purposes only and to inform you of third party products, services and websites that may be of interest, but it has not been tailored to your specific requirements or circumstances.
4. The information that Property Checker provides does not constitute technical, financial or legal advice or any other type of advice and should not be relied upon for any purposes. You should always use your own independent judgment when using Property Checker and the Site and seek independent verification or consult with a professional for advice specific to your circumstances.
5. While we try to make sure that Property Checker is available for your use, we do not promise that Property Checker will be available at all times or that your use of Property Checker will be uninterrupted.
6. We may suspend or terminate access or operation of Property Checker at any time as we see fit.

10. Hyperlinks and third party sites

1. Where Property Checker includes links to third-party websites or services, such links are provided solely for your convenience and information purposes. We do not endorse the content of such third-party websites or services, and we are not responsible for the accuracy or reliability of any information, data, opinions, advice, or statements made on those websites. Your use of a third party site may be governed by the terms and conditions of that third-party site and is at your own risk.
2. You should review the terms and conditions and privacy policies of any third-party websites or services that you visit via hyperlinks or references on the Property Checker tool to understand their practices and your rights.

11. Linking and framing

1. You may create a link to our Site from another website without our prior written consent provided no such link:
 1. creates a frame or any other browser or border environment around the content of our Site;
 2. implies that we endorse your products or services or any of the products or services of, or available through, the website on which you place a link to our Site;
 3. displays any of the trade marks or logos used on our Site without our permission or that of the owner of such trade marks or logos; or
 4. is placed on a website that itself breaches this Policy.
2. We reserve the right to require you to immediately remove any link to Property Checker at any time, and you shall immediately comply with any request by us to remove any such link.

12. Our responsibility to you

1. We are not liable to you for any: a) loss or damage that was not foreseeable (foreseeable meaning that, at the time these Terms were formed, it was either clear that such loss or damage would occur or you and we both knew that it might reasonably occur, as a result of something we did, or failed to do); b) loss or damage not caused by our breach or negligence; c) consequential, special, incidental or indirect losses; or (d) business loss or damage. Your sole and exclusive remedy in respect of your use of Property Checker is to cease using it.
2. Nothing in these Terms excludes or limits our liability for any death or personal injury caused by our negligence, liability for fraud or fraudulent misrepresentation, or any other liability that the law does not allow us to exclude or limit.

13. No Warranty

1. Property Checker and its content is provided 'as is' excluding warranties of any kind, either express or implied. To the maximum extent permitted by law, we accept no liability for functions contained on Property Checker and make no warranty that Property Checker will operate uninterrupted or error-free or that any defect will be corrected. We do not warrant that Property Checker is compatible with your computer equipment or that Property Checker or its server is free of errors, viruses, worms, or bugs.

14. Third party rights

Both us and you have the right to enforce any of these Terms. In addition, our licensors may also enforce these Terms against you.

15. Variation

1. No changes to these Terms are valid or have any effect unless agreed by us in writing or made in accordance with this clause 15.
2. We reserve the right to vary these Terms from time to time. Our updated Terms will be displayed on Property Checker and by continuing to use and access Property Checker following such changes, you agree to be bound by any variation made by us. It is your responsibility to check these Terms from time to time to verify such variations.

16. Law and Jurisdiction

1. These Terms shall be governed by and interpreted under the laws of England and Wales and any dispute will be subject to the exclusive jurisdiction of the courts of England.

TrustMark (2005) Limited, t/a TrustMark. Last updated 8.1.2025