



TRUSTMARK 2005 LTD

Platform Change Request Terms and Conditions

Governing the development, integration and enhancement of the TrustMark Platform

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These Terms and Conditions are published by TrustMark 2005 Ltd and apply to all Change Requests submitted to TrustMark by a Requesting Party. By signing a Change Request Form that incorporates these Terms and Conditions, the Requesting Party agrees to be bound by them.

1. Definitions and Interpretation

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions shall have the meanings set out below:

Term	Definition
“Change Request”	A written request submitted by the Requesting Party to TrustMark for a change to the Platform, including (without limitation) software feature development, enhancements, data integrations, API connections, and bespoke reporting or analytics modules.
“Charges”	The fees payable by the Requesting Party to TrustMark in respect of a Change Request, as agreed in writing in the relevant Change Request Form, which may be structured as a fixed price, time and materials, cost-recovery contribution, or such other basis as the parties agree.
“Change Request Form”	The document (in such form as TrustMark may prescribe from time to time) setting out the scope, specification, timeline, Charges, and payment terms for a Change Request, which shall incorporate these Terms and Conditions by reference.
“Confidential Information”	All information (whether written, oral, visual or in electronic form) relating to TrustMark’s business, the Platform, its architecture, source code, algorithms, data structures, roadmap, commercial arrangements, and any other information designated as confidential or which ought reasonably to be considered confidential.



“Deliverables”	The software, features, integrations, reports, analytics modules, documentation and any other outputs delivered by TrustMark pursuant to a Change Request.
“DBT”	The Department for Business and Trade (or any successor department).
“Existing IPR”	All Intellectual Property Rights owned by or licensed to TrustMark prior to the date of a Change Request, including all rights in the Platform.
“Intellectual Property Rights” or “IPR”	Patents, rights to inventions, copyright and related rights, trade marks, business names, domain names, rights in get-up and trade dress, goodwill, rights to sue for passing off, rights in designs, database rights, rights in computer software, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered, and including all applications and rights to apply for any of the foregoing, and all similar or equivalent rights or forms of protection in any part of the world.
“Master Licence Agreement” or “MLA”	The licence agreement between TrustMark and DBT pursuant to which TrustMark is authorised to operate the TrustMark scheme, as amended, supplemented or replaced from time to time.
“New IPR”	All Intellectual Property Rights created, developed or arising in connection with the performance of a Change Request, including (without limitation) all rights in the Deliverables.
“Personal Data”	Has the meaning given to it in the UK General Data Protection Regulation and the Data Protection Act 2018.
“Platform”	The TrustMark digital platform, including all software, databases, APIs, analytics tools, and associated systems owned and operated by TrustMark.
“Privacy Notice”	TrustMark’s privacy policy as published at https://www.trustmark.org.uk/about/privacy-policy (as updated from time to time).
“Requesting Party”	The government department, public body, or other third-party organisation that submits a Change Request and agrees to fund the relevant Deliverables.
“TrustMark”	TrustMark 2005 Ltd, a company registered in England and Wales (company number 05480144 whose registered office is at Grosvenor House, Basing View, Basingstoke, Hampshire, England, RG21 4HG operating the TrustMark scheme at www.trustmark.org.uk).
“Working Day”	Any day other than a Saturday, Sunday, or public holiday in England and Wales.

1.2 References to clauses are to clauses of these Terms and Conditions. Headings are for convenience only and shall not affect interpretation.



2. Application and Scope

- 2.1 These Terms and Conditions are published by TrustMark and apply to all Change Requests. By signing a Change Request Form that references these Terms and Conditions, the Requesting Party agrees to be bound by them as in force at the date of that Change Request Form.
- 2.2 No Change Request shall be binding on TrustMark unless and until TrustMark has accepted it in writing by countersigning the relevant Change Request Form.
- 2.3 In the event of any conflict between these Terms and Conditions and the Change Request Form, these Terms and Conditions shall prevail unless the Change Request Form expressly states that a specific provision is intended to override a specific clause of these Terms and Conditions.
- 2.4 These Terms and Conditions shall apply to all types of change, including (without limitation) software feature development and enhancements, data integrations and API connections, bespoke reporting and analytics modules, and any other modifications to the Platform.

3. Amendments to These Terms

- 3.1 TrustMark reserves the right to amend these Terms and Conditions from time to time. Any amendment shall be published at the URL specified in the document header and shall take effect thirty (30) days after the date of publication (“Amendment Effective Date”).
- 3.2 TrustMark shall use reasonable endeavours to notify Requesting Parties with active Change Requests of any material amendments by email or other written communication.
- 3.3 Amendments shall apply to all Change Request Forms signed on or after the Amendment Effective Date. For Change Request Forms signed before the Amendment Effective Date, the version of these Terms and Conditions in force at the date of signature shall continue to apply to that Change Request, unless the parties agree otherwise in writing.

4. Change Request Process

- 4.1 The Requesting Party shall submit a Change Request to TrustMark in writing, providing sufficient detail of the desired change to enable TrustMark to assess feasibility, scope, and cost.
- 4.2 TrustMark shall, within a reasonable period, provide the Requesting Party with a Change Request Form setting out:
 - 4.2.1 the scope and specification of the proposed Deliverables;
 - 4.2.2 the estimated or agreed timeline for delivery;
 - 4.2.3 the Charges and payment terms (whether fixed price, time and materials, cost-recovery, or otherwise); and
 - 4.2.4 any dependencies, assumptions, or requirements for cooperation from the Requesting Party.
- 4.3 TrustMark reserves the right to decline any Change Request at its sole discretion, including (without limitation) where the proposed change is incompatible with the Platform architecture, the MLA, or TrustMark’s strategic roadmap.

5. Delivery and Acceptance

- 5.1 TrustMark shall use reasonable endeavours to deliver the Deliverables in accordance with the timeline set out in the Change Request Form.
- 5.2 Any delivery dates are estimates only and time shall not be of the essence for delivery.

- 5.3** Upon delivery, TrustMark shall notify the Requesting Party in writing. The Requesting Party shall have ten (10) Working Days from receipt of such notification to notify TrustMark in writing of any material defects or non-conformances with the agreed specification. If no such notification is received within that period, the Deliverables shall be deemed accepted.
- 5.4** Where the Requesting Party notifies TrustMark of a material defect under clause 5.3, TrustMark shall use reasonable endeavours to remedy the defect within a reasonable period, following which the acceptance process in clause 5.3 shall re-apply.

6. Charges and Payment

- 6.1** The Requesting Party shall pay the Charges in accordance with the payment terms set out in the relevant Change Request Form.
- 6.2** Unless otherwise agreed in the Change Request Form, TrustMark shall invoice the Requesting Party in advance following execution of the applicable Change Request Form, and the Requesting Party shall pay such invoice in full prior to TrustMark commencing any work, performing any services, or delivering any Deliverables. TrustMark shall have no obligation to commence work or provide any Deliverables until payment has been received in cleared funds.
- 6.3** All Charges are exclusive of VAT, which shall be payable by the Requesting Party at the prevailing rate where applicable.
- 6.4** Without prejudice to any other right or remedy, if the Requesting Party fails to pay any amount due under these Terms and Conditions by the due date, TrustMark shall be entitled to charge interest on the overdue amount at the rate of 4% per annum above the Bank of England base rate from time to time, accruing daily from the due date until payment is made in full.
- 6.5** TrustMark may, where set out in the Change Request Form, require payment in full in advance, or agree milestone-based, phased, or other advance payment arrangements. Where advance payment applies, TrustMark shall have no obligation to commence work or provide any Deliverables until payment has been received in cleared funds.

7. Intellectual Property Rights

- 7.1** All Existing IPR shall remain the sole and exclusive property of TrustMark (or its licensors, as applicable). Nothing in these Terms and Conditions shall operate to transfer or assign any Existing IPR to the Requesting Party.
- 7.2** All New IPR shall vest in and be the sole and exclusive property of TrustMark immediately and automatically upon creation.
- 7.3** To the extent that any New IPR does not vest automatically in TrustMark by operation of law, the Requesting Party hereby assigns (and shall procure the assignment of) all such New IPR to TrustMark with full title guarantee, including by way of present assignment of future rights.
- 7.4** The Requesting Party shall, at TrustMark's request and expense, execute all documents and do all acts and things as may be necessary to give effect to the assignment of New IPR under this clause 7.
- 7.5** For the avoidance of doubt, the Requesting Party's funding of a Change Request shall not entitle the Requesting Party to any ownership interest, licence, or other proprietary right in the New IPR, the Deliverables, or the Platform, save as expressly set out in these Terms and Conditions.



- 7.6** TrustMark shall be free to use, modify, adapt, incorporate, sublicense, and otherwise exploit the New IPR and Deliverables as part of the Platform (or otherwise) without restriction, including making such functionality available to other users of the Platform.
- 7.7** Where TrustMark engages subcontractors in the performance of a Change Request, TrustMark shall ensure that all Intellectual Property Rights created by such subcontractors vest in or are assigned to TrustMark on terms consistent with this clause 7.
- 7.8** The Requesting Party warrants that any materials, data, specifications, or other inputs provided by the Requesting Party for the purposes of a Change Request shall not infringe the Intellectual Property Rights of any third party, and the Requesting Party shall indemnify TrustMark against all losses, damages, costs, and expenses arising from any breach of this warranty.

8. Data

- 8.1** Where the Requesting Party provides data to TrustMark in connection with a Change Request, the Requesting Party acknowledges and agrees that:
- 8.1.1 such data shall be embedded into the Platform and TrustMark's analytics systems;
 - 8.1.2 TrustMark shall be entitled to use, process, aggregate, and analyse such data as part of the Platform's ongoing operations; and
 - 8.1.3 the Requesting Party grants TrustMark a perpetual, irrevocable, royalty-free, non-exclusive licence to use such data for the purposes of operating, maintaining, improving, and developing the Platform.
- 8.2** All data generated by or through the Deliverables following deployment shall be owned by TrustMark and shall form part of the Platform's data assets.
- 8.3** All Personal Data shall be processed in accordance with TrustMark's Privacy Notice (available at <https://www.trustmark.org.uk/about/privacy-policy>), the UK General Data Protection Regulation, and the Data Protection Act 2018.
- 8.4** The Requesting Party warrants that it has all necessary consents, authorisations, and lawful bases to provide any data (including Personal Data) to TrustMark in connection with a Change Request, and shall indemnify TrustMark against all losses arising from any breach of this warranty.
- 8.5** Where a Change Request involves the processing of Personal Data on behalf of the Requesting Party, the parties shall enter into a data processing agreement on terms to be agreed, consistent with applicable data protection legislation.

9. Term and Termination

- 9.1** These Terms and Conditions shall apply to each Change Request from the date TrustMark countersigns the relevant Change Request Form and shall continue in force for the duration of the Change Request, subject to earlier termination in accordance with this clause 9.
- 9.2** The rights and obligations of the parties under these Terms and Conditions (including, without limitation, TrustMark's ownership of New IPR and rights in respect of data) shall in all cases be subject to and conditional upon the continuation of the Master Licence Agreement. In the event that the MLA is terminated, expires, or is not renewed:
- 9.2.1 TrustMark shall notify the Requesting Party as soon as reasonably practicable;
 - 9.2.2 the parties shall discuss in good faith the implications for any ongoing Change Requests; and
 - 9.2.3 TrustMark's obligations to deliver outstanding Deliverables may be suspended or terminated at TrustMark's discretion, without liability, to the extent that delivery is no longer feasible or appropriate in the absence of the MLA. To the extent that any Charges have been paid in

advance for Deliverables or Services that are not provided as a result, TrustMark shall refund only such proportion of those Charges as relates to work not performed and for which TrustMark has not incurred any cost, expense, committed expenditure, or liability, and TrustMark shall be entitled to retain all amounts attributable to work performed and costs, expenses, commitments, or liabilities incurred up to the date of suspension or termination.

- 9.3** Either party may terminate a Change Request by giving not less than thirty (30) days' written notice to the other party.
- 9.4** TrustMark may terminate a Change Request immediately by written notice if the Requesting Party:
- 9.4.1 commits a material breach of these Terms and Conditions which is not capable of remedy, or which (being capable of remedy) is not remedied within twenty (20) Working Days of written notice requiring its remedy;
 - 9.4.2 fails to pay any amount due under these Terms and Conditions by the due date; or
 - 9.4.3 undergoes a change of control, enters into administration, or becomes insolvent.
- 9.5** Upon termination or expiry of a Change Request for any reason:
- 9.5.1 The Requesting Party shall pay TrustMark for all work performed and for all costs, expenses, liabilities, and commitments properly incurred, accrued, or entered into by TrustMark up to and including the date of termination, whether or not such amounts have fallen due for payment as at the date of termination.
 - 9.5.2 all New IPR created up to and including the date of termination shall remain the sole property of TrustMark;
 - 9.5.3 TrustMark shall retain full discretion as to whether to retain, modify, or remove any partially completed Deliverables from the Platform; and
 - 9.5.4 clauses 7 (Intellectual Property Rights), 8 (Data), 10 (Confidentiality), 11 (Limitation of Liability), and 14 (Governing Law) shall survive termination.

10. Confidentiality

- 10.1** The Requesting Party shall keep confidential all Confidential Information disclosed to it by TrustMark and shall not, without TrustMark's prior written consent, disclose such Confidential Information to any third party or use it for any purpose other than the performance of obligations in connection with the relevant Change Request.
- 10.2** The obligation of confidentiality in clause 10.1 shall not apply to information which:
- 10.2.1 is or becomes publicly available other than through breach of this clause;
 - 10.2.2 was already in the Requesting Party's possession (without obligation of confidentiality) prior to disclosure;
 - 10.2.3 is received from a third party who is not in breach of any obligation of confidentiality; or
 - 10.2.4 is required to be disclosed by law, regulation, court order, or pursuant to the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, provided that the Requesting Party shall (to the extent permitted by law) give TrustMark reasonable advance written notice of such disclosure and shall have due regard to any representations TrustMark may make in relation thereto.
- 10.3** The obligations in this clause 10 shall survive termination of any Change Request and shall continue in force for a period of five (5) years from the date of disclosure of the relevant Confidential Information.



11. Limitation of Liability

- 11.1** Nothing in these Terms and Conditions shall limit or exclude either party's liability for:
- 11.1.1 death or personal injury caused by its negligence;
 - 11.1.2 fraud or fraudulent misrepresentation; or
 - 11.1.3 any other liability which cannot be limited or excluded by applicable law.
- 11.2** Subject to clause 11.1, neither party shall be liable to the other party for any indirect, consequential, special, or incidental loss or damage, including (without limitation) loss of profits, loss of revenue, loss of business, loss of anticipated savings, loss of goodwill, or loss of data, howsoever arising (whether in contract, tort (including negligence), breach of statutory duty, or otherwise).
- 11.3** TrustMark does not warrant that the Deliverables will be error-free or uninterrupted, or that they will meet the Requesting Party's requirements beyond the specification agreed in the relevant Change Request Form. All other conditions, warranties, and representations (whether express or implied, statutory or otherwise) are, to the fullest extent permitted by law, excluded.

12. Warranties and Representations

- 12.1** TrustMark warrants that it shall perform its obligations under each Change Request with reasonable skill and care.
- 12.2** The Requesting Party warrants and represents that:
- 12.2.1 it has full authority to enter into and perform its obligations under these Terms and Conditions and each Change Request Form;
 - 12.2.2 it shall cooperate with TrustMark and provide such information, materials, and assistance as TrustMark may reasonably require to perform the Change Request; and
 - 12.2.3 all materials, data, and specifications provided to TrustMark are accurate, complete, and do not infringe any third-party rights.

13. Force Majeure

13.1 Neither party shall be in breach of these Terms and Conditions or otherwise liable for any failure or delay in the performance of its obligations to the extent that such failure or delay results from circumstances beyond the reasonable control of that party, including (without limitation) acts of God, fire, flood, epidemic or pandemic, industrial action, war, terrorism, governmental action, or failure of third-party telecommunications networks.

13.2 The affected party shall promptly notify the other party of the nature and expected duration of the force majeure event and shall use reasonable endeavours to mitigate its effects. Notwithstanding the foregoing, a force majeure event shall not affect TrustMark's entitlement to retain or recover amounts in respect of work performed and any costs, expenses, liabilities or commitments incurred, accrued or entered into up to the date on which performance is affected, including any non-cancellable committed expenditure. Any refund of Charges paid in advance shall be limited to amounts relating to work not performed and for which TrustMark has not incurred any cost, expense, liability or commitment.

14. General Provisions

- 14.1 Governing Law and Jurisdiction.** These Terms and Conditions and any dispute or claim arising out of or in connection with them (including non-contractual disputes or claims) shall be governed by and

construed in accordance with the laws of England and Wales. The courts of England and Wales shall have exclusive jurisdiction.

- 14.2 Entire Agreement.** These Terms and Conditions, together with the relevant Change Request Form, constitute the entire agreement between the parties in relation to the relevant Change Request and supersede all prior discussions, representations, and arrangements.
- 14.3 Variation.** Save as provided in clause 3 (Amendments to These Terms), no variation of these Terms and Conditions shall be effective unless it is in writing and signed by or on behalf of both parties.
- 14.4 Waiver.** No failure or delay by a party to exercise any right or remedy shall constitute a waiver of that right or remedy, nor shall any single or partial exercise of any right or remedy preclude or restrict the further exercise of that or any other right or remedy.
- 14.5 Severability.** If any provision of these Terms and Conditions is found by any court or competent authority to be invalid, illegal, or unenforceable, that provision shall be deemed modified to the minimum extent necessary to make it valid, legal, and enforceable. If such modification is not possible, the relevant provision shall be deemed deleted. Any modification or deletion shall not affect the validity and enforceability of the remaining provisions.
- 14.6 Third-Party Rights.** No person other than the parties to these Terms and Conditions shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 14.7 Assignment.** The Requesting Party shall not assign, transfer, subcontract, or otherwise dispose of any of its rights or obligations under these Terms and Conditions without the prior written consent of TrustMark. TrustMark may assign or transfer its rights and obligations without the Requesting Party's consent.
- 14.8 Notices.** All notices under these Terms and Conditions shall be in writing and shall be deemed to have been duly given if sent by email to the address specified in the Change Request Form, provided that notice by email shall be deemed received on the next Working Day after sending.
- 14.9 Relationship of the Parties.** Nothing in these Terms and Conditions shall create or be deemed to create a partnership, joint venture, or relationship of employer and employee between the parties.
- 14.10 Subcontracting.** TrustMark may subcontract the performance of any of its obligations under a Change Request to third-party subcontractors, provided that TrustMark shall remain responsible for the performance of such obligations and shall ensure that all Intellectual Property Rights created by subcontractors vest in TrustMark in accordance with clause 7.

End of Terms and Conditions

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