

## End User License Agreement - v1.03

Welcome to pro-Forms®, the mobile data collection solution for businesses of all sizes and operating across all industry sectors. Please read this End User License Agreement (the **“Agreement”**) carefully before accessing your account on both the pro-Forms® website and mobile device client as they form a legally binding contract between us. The Agreement applies to the entire content of the pro-Forms® service at <http://www.pro-forms.co.uk> (the **“Web Service”**), and the mobile device client (the **“Device Client”**) and any correspondence between us. If you access either or both of the Web Service and/ or Device Client then you indicate that you accept the terms of the Agreement . If you do not accept these terms, then please do not use the Web Service or Device Client. This Agreement is published by ResourceTrack (UK) Limited, a private limited company registered in England with company number 05781330 whose registered office is at 66 Fellows Lane, Harborne, Birmingham B17 9TX, UK (the **“Company”** and **“we”**). The company VAT number is 883319108.

**By signing up for a Trial pro-Forms® Account you agree to the Terms of this Agreement which will bind you. If you do not agree to these Terms, please do not access and/or use our Web Service and/or Device Client.**

# End User License Agreement

## 1. INTRODUCTION

**1.1** In consideration of the payment by you of the current monthly subscription amount as displayed at [www.pro-forms.co.uk](http://www.pro-forms.co.uk) and you agreeing to abide by these Terms, we hereby grant you access to use the Web Service and Device Client on the terms set out in this document.

**1.2** By accessing any part of the Web Service and/ or Device Client using the master username and password given to you by us, you shall be deemed to have accepted the Terms in full which shall take effect immediately on your first use of the Web Service and/ or Device Client. If you do not accept the Terms in full, you must not log-in using the master username and password given to you or any other End User username and/ or password you may have added to your account.

**1.3** ResourceTrack (UK) Ltd may revise these Terms at any time by re-issuing a copy of this End User License Agreement to you.

**1.4** Any amendments, modifications, enhancements or changes to the Web Service and/ or Device Client made available by ResourceTrack (UK) Ltd from time to time shall be subject to these Terms.

## 2. RIGHTS GRANTED

**2.1** You are permitted to use the Web Service and/ or Device Client for your own internal business purposes or for your own personal use on the following basis:

(a) You have provided your full legal name, a company trading name and a valid email address, and any other information requested in order to complete the sign-up process; and

(b) if you provide or otherwise make available the Web Service and/ or Device Client in whole or in part in any form to any person including your employees, ("End Users") you undertake to ensure that all End Users comply with these Terms and acknowledge that you shall remain responsible and liable for the acts or omissions of all End Users to the same extent as if you had carried out such acts or omissions yourself.

**326 High Street, Harborne, Birmingham, West Midlands B17 9PU United Kingdom**

**Email:** [info@pro-forms.co.uk](mailto:info@pro-forms.co.uk) **Tel:** +44(0)845 094 1615

**Fax:** +44(0)845 094 1616 **Twitter:** @proForms



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## End User License Agreement

**2.2** Subject to the provisions of clause 2.3, all copyright and other intellectual property rights in the Web Service and/ or Device Client and material on the main pro-Forms® website (including without limitation photographs and graphical images) are owned by the ResourceTrack (UK) Ltd or its licensors. Any use of extracts from the website for any purpose is prohibited.

**2.3** All copyright and intellectual property rights in any information uploaded by you or your employees to the website in connection with the Web Service and/ or Device Client shall remain vested in you, your employees or your licensors.

**2.4** No part of the pro-Forms® website or Web Service and/ or Device Client may be reproduced or stored in any other website or included in any public or private electronic retrieval system or service without the prior written permission of ResourceTrack (UK) Ltd.

**2.5** Any rights not expressly granted in these Terms are reserved.

### **3. SERVICE ACCESS & TECHNICAL SUPPORT**

**3.1** Whilst ResourceTrack (UK) Ltd endeavours to ensure that the website and Web Service and/ or Device Client are normally available 24 hours a day, the Company shall not be liable if for any reason the website or Web Service and/ or Device Client are unavailable at any time or for any period.

**3.2** Access to the website and Web Service and/ or Device Client may be suspended temporarily and without notice in the case of system failure, maintenance or repair or for reasons beyond the control of ResourceTrack (UK) Ltd.

**3.3** ResourceTrack (UK) Ltd will provide technical support to then current paying subscribers to the Web Service and/ or Device Client by telephone, email and online support system only. Technical support will only be provided for bugs or errors in the Web Service and/ or Device Client that are capable of reproduction by ResourceTrack (UK) Ltd. You agree to provide ResourceTrack (UK) Ltd with full and accurate details of all bugs and errors encountered and requested by ResourceTrack (UK) Ltd. You acknowledge that ResourceTrack (UK) Ltd provides no warranty that all or any bugs or errors notified to ResourceTrack (UK) Ltd will be corrected.

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### 4. ACCEPTABLE CONDUCT

**4.1** You are explicitly prohibited from posting or transmitting to or from the Web Service and/ or Device Client any material:

(a) that is threatening, defamatory, obscene, indecent, seditious, offensive, pornographic, abusive, liable to incite racial hatred, discriminatory, menacing, scandalous, inflammatory, blasphemous, in breach of confidence, in breach of privacy or which may cause annoyance or inconvenience; or

(b) for which you have not obtained all necessary licences, consents and/or approvals; or

(c) which constitutes or encourages conduct that would be considered a criminal offence, give rise to civil liability, or otherwise be contrary to the law of or infringe the rights of any third party, in any country in the world; or

(d) which is technically harmful (including, without limitation, computer viruses, logic bombs, Trojan horses, worms, harmful components, corrupted data or other malicious software or harmful data).

**4.2** You may not use the Web Service and/ or Device Client :

(a) in any way that breaches any applicable local, national or international law or regulation;

(b) in any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect;

(c) for the purpose of harming or attempting to harm minors in any way; or

(d) to transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation (spam).

**4.3** ResourceTrack (UK) Ltd shall fully co-operate with any law enforcement authorities or court order requesting or directing ResourceTrack (UK) Ltd to disclose the identity or locate anyone posting any material in breach of clause 4.1, 4.2 or 4.3.

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### 5. SUBSCRIBING & PAYMENT

**5.1** Each Work Group is for use by either a single legal entity (e.g. a registered company or Limited Liability Partnership) or an individual user. You may provide End Users with access to your Work Group by adding a user account for each unique user via your Work Group administration options. ResourceTrack (UK) Ltd does not permit you to share the master username and password provided to you as part of the sign-up procedure with any other person nor with multiple users on a network.

**5.2** Responsibility for the security of any usernames and passwords issued (including those of any End Users) rests with you.

**5.3** For paying accounts, you agree to provide us with the number of unique remote End Users you wish to access the mobile device client. You will be billed only for this number of unique remote End Users and not for any End Users that have been given access to the Web Service only. The subscription charge per unique remote End User is posted on our website. We may vary these from time to time; please check <http://www.pro-forms.co.uk/index.php/sign-up> for the subscription rates in force for the current month.

**5.4** For paying accounts you will be invoiced monthly in advance on or around the 7th day of each calendar month. Payments are non-refundable, and no refunds or credits will be given for any partial use within any month.

**5.5** If you sign up for a fee paying subscription account on a 30-day trial and do not cancel that account within 30 days, you will be billed monthly for your ongoing use of the System on the 7th day of the next calendar month following the date on which you initially signed up for your account. If you cancel your account (by emailing us at [contact@pro-forms.co.uk](mailto:contact@pro-forms.co.uk) stating that you wish to cancel your subscription) within 30 days of your Work Group access details being provided to you then you will not be charged.

**5.7** Please note that if you wish to either increase or decrease the number of unique remote End Users accessing the system via the mobile device client you must give us 30 days notice in writing by email to [contact@pro-forms.co.uk](mailto:contact@pro-forms.co.uk). Failure to provide 30 days notice will incur the same subscription charge as the previous month.

## End User License Agreement

**5.8** The subscription rate is exclusive of all taxes, charges, levies, assessments and other fees of any kind imposed on your use of the Service and shall be the responsibility of, and payable by, you. If your place of business is within the EU (excluding the UK) and you provide us with a valid VAT registration number then we will not charge you VAT. In all other circumstances if you reside or have your place of business within the EU then we will add UK VAT to the subscription rate for which you will be invoiced.

**5.9** We reserve the right to suspend your Work Group immediately if you fail to provide us with billing details that enable us to invoice the full amount of any outstanding subscriptions and charges within 30 days of the due date. We will provide prior notice of our intention to suspend access to your Work Group by email to the email address provided to us as part of the sign-up process. If no payment is made to clear the full amount of any outstanding subscriptions and charges within a further 60 days your Work Group and all associated data will be deleted and the agreement between us set out in these Terms shall be automatically terminated.

### **6. DISCLAIMER**

**6.1** While ResourceTrack (UK) Ltd endeavours to ensure that the information provided on the website and the information provided in connection with the Service is correct, ResourceTrack (UK) Ltd does not warrant the accuracy and completeness of such material. ResourceTrack (UK) Ltd may make changes to the material on the website or to the Service, or to the products and prices described on the website, at any time without notice. The material on the website may be out of date, and ResourceTrack (UK) Ltd makes no commitment to update such material.

**6.2** The material on the website and the Service is provided "as is", without any conditions, warranties or other terms of any kind. Accordingly, to the maximum extent permitted by law, ResourceTrack (UK) Ltd provides you with access to the website and the Service on the basis that ResourceTrack (UK) Ltd excludes all representations, warranties, conditions and other terms (including, without limitation, the conditions implied by law of satisfactory quality, fitness for purpose and the use of reasonable care and skill) which, but for this legal notice, might have effect in relation to the website or the Service.

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### 6.3 You acknowledge that:

(a) the Service has not been developed to meet your individual requirements, and that it is therefore your responsibility to ensure that the facilities and functions of the Service as described on the website meet your requirements;

(b) it is not possible to test the Service in advance in every possible operating combination and environment; and

(c) it is not possible to produce a Service known to be error free in all circumstances.

## 7. LIABILITY

7.1 ResourceTrack (UK) Ltd, any other party (whether or not involved in creating, producing, maintaining or delivering the website or Service), and any of ResourceTrack (UK) Ltd's officers, directors, employees, shareholders or agents of any of them, exclude all liability and responsibility for any amount or kind of loss or damage that may result to you or a third party (including without limitation, any direct, indirect, punitive or consequential loss or damages, or any loss of income, profits, goodwill, data, contracts, use of money, or loss or damages arising from or connected in any way to business interruption, and whether in tort (including without limitation negligence), contract or otherwise) in connection with the website or Service in any way or in connection with the use, inability to use or the results of use of the website or Service, any websites linked to the website or the material on such websites, including but not limited to loss or damage due to viruses that may infect your computer equipment, software, data or other property on account of your access to, use of, or browsing the website or Service or your downloading of any material from the website, the Service or any websites linked to the website or Service.

## End User License Agreement

**7.2** Nothing in this legal notice shall exclude or limit ResourceTrack (UK) Ltd's liability for:

(a) death or personal injury caused by negligence (as such term is defined by the Unfair Contract Terms Act 1977; or

(b) fraud; or

(c) misrepresentation as to a fundamental matter; or

(d) any liability which cannot be excluded or limited under applicable law.

**7.3** If your use of material on the website or the Service results in the need for servicing, repair or correction of equipment, software or data, you assume all costs thereof.

**7.4** Subject to clauses 7.1 and 7.2, ResourceTrack (UK) Ltd's maximum aggregate liability under or in connection with these Terms, or any collateral contract, whether in contract, tort (including negligence) or otherwise (a "Claim"), shall be limited to a sum equal to the aggregate amount which you are obliged to pay ResourceTrack (UK) Ltd in the six (6) month period immediately prior to the period giving rise to such Claim.

## 8. TERMINATION

**8.1** ResourceTrack (UK) Ltd may terminate this Agreement immediately by written notice and sent by email to you if:

(a) you commit a material or persistent breach of these Terms which you fail to remedy (if remediable) within 14 days after the service of written notice requiring you to do so; or

(b) a petition for a bankruptcy order to be made against you has been presented to the court; or



## End User License Agreement

(c) you (being a company) becomes insolvent or unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986), enters into liquidation, whether voluntary or compulsory (other than for reasons of bona fide amalgamation or reconstruction), passes a resolution for its winding-up, has a receiver or administrator manager, trustee, liquidator or similar officer appointed over the whole or any part of its assets, makes any composition or arrangement with its creditors or takes or suffers any similar action in consequence of its debt, unable to pay your debts (within the meaning of section 123 of the Insolvency Act 1986).

**8.2** You may terminate this Agreement at any time by emailing us at [contact@pro-forms.co.uk](mailto:contact@pro-forms.co.uk).

**8.3** Upon termination for any reason:

(a) all rights granted to you under these Terms shall cease;

(b) you must cease all activities authorised by these Terms;

(c) you must immediately pay to ResourceTrack (UK) Ltd any sums due to ResourceTrack (UK) Ltd under these Terms;

(d) you will not be entitled to any refund or credit in respect of any fee paid by you in advance for any cancelled Service; and

(e) ResourceTrack (UK) Ltd may immediately and without further notice delete or remove any content, data or other information submitted by you or your Invitees to the Service.

## 9. TRANSFER OF RIGHTS AND OBLIGATIONS

**9.1** These Terms are binding on you and us, and on our respective successors and assigns.

**9.2** You may not transfer, assign, charge or otherwise dispose of these Terms or any of your rights or obligations arising hereunder, without our prior written consent.

**9.3** We may transfer, assign, charge, sub-contract or otherwise dispose of these Terms, or any of our rights or obligations arising hereunder, at any time.

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## 10. NOTICES

**10.1** All notices given by you to us must be given to ResourceTrack (UK) Ltd at [contact@pro-forms.co.uk](mailto:contact@pro-forms.co.uk) or 326 High Street, Harborne, Birmingham B17 9PU. We may give notice to you at either the e-mail or postal address you provided to us when registering. Notice will be deemed received and properly served immediately when posted on our website, 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

## 11. EVENTS OUTSIDE OUR CONTROL

**11.1** We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations hereunder that is caused by events outside our reasonable control (a "Force Majeure Event").

**11.2** A Force Majeure Event includes any act, event, non-happening, omission or accident beyond our reasonable control and includes in particular (without limitation) the following:

- (a) strikes, lock-outs or other industrial action;
- (b) civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;
- (c) fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster;
- (d) impossibility of the use of public or private telecommunications networks;
- (e) the acts, decrees, legislation, regulations or restrictions of any government.

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### 12. WAIVER

**12.1** If we fail, at any time to insist upon strict performance of any of your obligations under these Terms, or if we fail to exercise any of the rights or remedies to which we are entitled hereunder, this shall not constitute a waiver of such rights or remedies and shall not relieve you from compliance with such obligations.

**12.2** A waiver by us of any default shall not constitute a waiver of any subsequent default.

**12.3** No waiver by us of any of these Terms and conditions shall be effective unless it is expressly stated to be a waiver and is communicated to you in writing.

### 13. SEVERABILITY

**13.1** If any of these Terms are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

### 14. ENTIRE AGREEMENT

**14.1** These Terms and any document expressly referred to in it represents the entire agreement between us in relation to the use of the website and the provision of the Services and supersedes any prior agreement, understanding or arrangement between us, whether oral or in writing.

**14.2** We each acknowledge that, in entering into these Terms, neither of us has relied on any representation, undertaking or promise given by the other or be implied from anything said or written in negotiations between us prior to entering into these Terms except as expressly stated herein.

**14.3** Neither of us shall have any remedy in respect of any untrue statement made by the other, whether orally or in writing, prior to the date we entered into these Terms (unless such untrue statement was made fraudulently) and the other party's only remedy shall be for breach of contract as provided in these Terms.

## End User License Agreement

### 15. GOVERNING LAW AND JURISDICTION

**15.1** This legal notice shall be governed by and construed in accordance with English law. Disputes arising in connection with this legal notice shall be subject to the exclusive jurisdiction of the English Courts.

# End User License Agreement

## PRIVACY POLICY

This privacy policy sets out how “ResourceTrack (UK) Limited” uses and protects any information that you give “ResourceTrack (UK) Limited” when you use this website.

“ResourceTrack (UK) Limited” is committed to ensuring that your privacy is protected. Should we ask you to provide certain information by which you can be identified when using this website, then you can be assured that it will only be used in accordance with this privacy statement.

“ResourceTrack (UK) Limited” may change this policy from time to time by updating this page. You should check this page from time to time to ensure that you are happy with any changes. This policy is effective from 1st February 2016.

### What we collect

We may collect the following information:

- name and job title.
- contact information including email address.
- demographic information such as post code, preferences and interests.
- other information relevant to customer surveys and/or offers.

## End User License Agreement

### PRIVACY POLICY

#### What we do with the information we gather

We require this information to understand your needs and provide you with a better service, and in particular for the following reasons:

- Internal record keeping.
- We may use the information to improve our products and services.
- We may periodically send promotional email about new products, special offers or other information which we think you may find interesting using the email address which you have provided.
- From time to time, we may also use your information to contact you for market research purposes. We may contact you by email, phone, fax or mail.
- We may use the information to customise the website according to your interests.

#### Security

We are committed to ensuring that your information is secure. In order to prevent unauthorised access or disclosure we have put in place suitable technical and organisational measures against the accidental, unauthorised or unlawful processing, destruction, loss, damage or disclosure of your data and adequate security programs and procedures to ensure that unauthorised persons do not have access to any equipment used to process such data or on which any such data is stored.

All data held in system databases is backed up daily within the server data centre and a copy taken and held off site. Physical security is paramount and the ResourceTrack (UK) Ltd offices are security controlled by use of key fob entry and with communal areas and staff office areas monitored by CCTV.

The pro-Forms® mobile app uses AES 128-bit encryption as standard. Where a Customer specifies the movement of data via FTP a standard option of SFTP (secure FTP) is available. The browser based element of the system utilises 256-bit SSL encryption with all data being moved between server and mobile device being encrypted.

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## PRIVACY POLICY

### Links to other websites

Our website may contain links to enable you to visit other websites of interest easily. However, once you have used these links to leave our site, you should note that we do not have any control over that other website. Therefore, we cannot be responsible for the protection and privacy of any information which you provide whilst visiting such sites and such sites are not governed by this privacy statement. You should exercise caution and look at the privacy statement applicable to the website in question.

### Controlling personal information

You may choose to restrict the collection or use of your personal information in the following ways:

- whenever you are asked to fill in a form on the website, look for the box that you can click to indicate that you do not want the information to be used by anybody for direct marketing purposes.
- if you have previously agreed to us using your personal information for direct marketing purposes, you may change your mind at any time by writing to or emailing us at [contact@resourcetrack.co.uk](mailto:contact@resourcetrack.co.uk) This e-mail address is being protected from spambots. You need JavaScript enabled to view it .

We will not sell, distribute or lease your personal information to third parties unless we have your written permission or are required by law to do so. We may use your personal information to send you promotional information about third parties which we think you may find interesting if you tell us that you wish this to happen.



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## PRIVACY POLICY

### IP addresses

We may collect information about your computer (or mobile device), including where available your IP address, Operating System type, for system administration or for our own commercial purposes. This is statistical data about our users' browsing actions and patterns.

### How we use cookies

A cookie is a small file which asks permission to be placed on your computer's hard drive. Once you agree, the file is added and the cookie helps analyse web traffic or lets you know when you visit a particular site. Cookies allow web applications to respond to you as an individual. The web application can tailor its operations to your needs, likes and dislikes by gathering and remembering information about your preferences.

We use traffic log cookies to identify which pages are being used. This helps us analyse data about web page traffic and improve our website in order to tailor it to customer needs. We only use this information for statistical analysis purposes and then the data is removed from the system. Overall, cookies help us provide you with a better website, by enabling us to monitor which pages you find useful and which you do not. A cookie in no way gives us access to your computer or any information about you, other than the data you choose to share with us.

You can choose to accept or decline cookies. Most web browsers automatically accept cookies, but you can usually modify your browser setting to decline cookies if you prefer. This may prevent you from taking full advantage of the website.

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You may request details of personal information which we hold about you under the Data Protection Act 1998.

A small fee will be payable. If you would like a copy of the information held on you please write to :

ResourceTrack (UK) Limited

326 High Street

Harborne

Birmingham

B17 9PU

If you believe that any information we are holding on you is incorrect or incomplete, please write to or email us as soon as possible, at the above address. We will promptly correct any information found to be incorrect.

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